## **DEPARTMENT OF TRANSPORTATION**

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178, 179, and 180

[Docket No. HM-221; Notice No. 95-2] RIN 2137-AC62

## Alternate Standards for Open-Head Fiber Drum Packaging

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Supplemental advance notice of proposed rulemaking; reopening of public comment period and announcement of public hearing.

SUMMARY: RSPA is inviting additional proposals and comments concerning alternate standards for open-head fiber drum packagings, for the domestic transportation of liquid hazardous materials. Among the matters on which further comments may be submitted are the alternate standards proposed by the International Fibre Drum Institute; a proposed exception for certain shipments of hazardous wastes; and the factors which RSPA should consider in this rulemaking proceeding.

**DATES:** *Written comments:* Comments must be received on or before March 13, 1995

*Public hearing:* A public hearing will be held on February 17, 1995, beginning at 9:30 a.m.

ADDRESSES: Comments: Address comments to Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the Docket (HM-221) and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a selfaddressed stamped postcard showing the docket number. The Dockets Unit is located in Room 8419 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: 202-366-5046. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday except Federal

Public hearing: The February 17, 1995 public hearing will be held at the Federal Aviation Administration's Auditorium, 3rd floor, 800 Independence Avenue, SW., Washington, DC. Any person planning to present an oral statement at the public hearing should notify John Potter or Diane LaValle, by telephone or in

writing by February 15, 1995. Each request must include the identity of the speaker and organization represented, if any; a daytime telephone number; and anticipated length of presentation, not to exceed 10 minutes. Speakers are requested to provide a written copy of their prepared text to the presiding officer prior to making their oral statement. The hearing may conclude before 5 p.m. if all persons wishing to speak have been heard.

FOR FURTHER INFORMATION CONTACT: John Potter or Diane LaValle, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001; telephone 202–366–4488.

## SUPPLEMENTARY INFORMATION:

## I. Background

On and after October 1, 1996, fiber drums used for the transportation of liquid hazardous materials must meet the performance-oriented standards set forth in Subpart M of 49 CFR Part 178. See 49 CFR 171.14(a)(1)(iii). These consist of the tests and standard prescribed in the following sections of 49 CFR:

§ 178.603—drop test § 178.604—leakproofness test § 178.605—hydrostatic test § 178.606—stacking test § 178.608—vibration standard

These performance-oriented standards were adopted in RSPA's rulemaking proceeding No. HM–181. 55 FR 52042 (Dec. 21, 1990); 56 FR 66124 (Dec. 20, 1991); 57 FR 45442, 45446 (Oct. 1, 1992); 57 FR 46624 (Oct. 9, 1992).

On October 7, 1994, RSPA published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM), Docket No. HM–221; Notice No. 94–9 (59 FR 51157), soliciting comments and proposals for alternate standards for open-head fiber drum packaging. The ANPRM was issued to fulfill the requirement in Section 122(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103–311) (the "Act") that DOT initiate a rulemaking proceeding

To determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation) as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under

docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

If, as a result of this rulemaking proceeding, DOT determines

That a packaging standard other than the performance-oriented packaging standards referred to in [Section 122(a)] will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented standards were in effect, [DOT] shall issue regulations which implement such other standards and which take effect before October 1, 1996.

Section 122(b). The Act also requires that the rulemaking proceeding be completed before October 1, 1995 (Section 122(c)), but that this rulemaking and any regulations issued "shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation \* \* \*" Section 122(d)(1).

In the ANPRM, RSPA requested "[d]etailed comments and proposals . . . that will assist RSPA in developing an appropriate regulatory proposal consistent with the requirement quoted above." 59 FR 51158. RSPA invited proposals, "preferably in the form of a draft standard, that would assist RSPA in accomplishing the intended effect of this law." Id. RSPA also invited comments on whether alternate standards for open head fiber drums should be limited to domestic transportation of liquid hazardous materials. The comment period on the ANPRM closed December 12, 1994.

In response to the ANPRM, RSPA received comments from 17 parties. In addition, RSPA's Administrator and other DOT officials have held two meetings concerning this rulemaking with: (1) Counsel for the International Fibre Drum Institute (IFDI) and officials of Sonoco Products Company (a member of IFDI), on September 30, 1994, and (2) representatives of the Association of Container Reconditioners, the 3M Corporation, USX Corporation, and the Steel Shipping Container Institute (SSCI), on December 16, 1994. Notes of these two meetings have been placed in the public docket file of this rulemaking proceeding

Only IFDI has proposed alternate standards for open-head fiber drum packaging for the transportation of liquid hazardous materials. Several other commenters expressed opposition to alternate standards, including SSCI which asserted that alternate standards would move the United States away from an international system of hazardous materials regulations, forcing some shippers to stock different packagings for domestic and