international shipments, and compromise transportation safety by authorizing lower quality packagings. Another commenter stated that alternate packagings should be approved only under the provisions of 49 CFR 178.601(h), which authorizes RSPA's Associate Administrator for Hazardous Materials Safety to approve packagings which are "shown to be equally effective, and testing methods used must be equivalent."

Another party, Monsanto Company, expressed general support for the performance-oriented packaging standards adopted in HM-181, but urged RSPA to provide a limited exception to allow the use of nonstandard fiber drums for the shipment of liquid hazardous wastes in packing groups II and III to incineration facilities. Monsanto's proposal would apply to the situation when the entire package (with its contents) was to be incinerated, and would allow the onetime use of drums similar in design to former DOT specifications 21C and 21P, under conditions similar to those set forth in 49 CFR 173.12(c) (authorizing the reuse of standard packagings for shipments of hazardous waste, by highway only, when the packaging is packed at least 24 hours in advance of transportation, inspected for leaks, and loaded by the shipper and unloaded by the consignee—or handled only by private or contract carrier). Monsanto would also limit to 90 days the total time the non-standard fiber drum could contain the liquid hazardous waste.

Other commenters stated that any alternate standards adopted should apply to all open-head drums (of whatever construction materials); Russell-Stanley Corp. specifically requested that RSPA expand this rulemaking to include steel and plastic drums "of equal performance," if RSPA issued alternate standards for fiber drums.

In its comments, IFDI stated that open-head fiber drums presently being manufactured meet the stacking test set forth in 49 CFR 178.606 and the vibration standard set forth in 49 CFR 178.608. As alternatives to the other three HM–181 performance standards (drop, leakproofness, and hydrostatic pressure tests), IFDI has proposed, and it discussed in its written comments, a set of six standards entitled as follows:

IFDI Standard 101, Rev. 1— Compatibility Test

IFDI Standard 110, Rev. 1—Joint Integrity Test

IFDI Standard 120, Rev. 1—Leakage Spray Test

IFDI Standard 130, Rev. 1— Weatherproofing Test IFDI Standard 140, Rev. 1—Fibre Drum Structure

IFDI Standard 150, Rev. 1-Impact Test

These six proposed standards appear to be identical to standards proposed by IFDI's predecessor organization, the Fibre Drum Technical Council (FDTC), in a June 8, 1992 application for an exemption. RSPA's Associate Administrator for Hazardous Materials Safety denied FDTC's application for an exemption because he found that FDTC's proposed impact test was not equivalent to the 3.9 and 2.6 foot drop tests required for Packing Group II and III packagings, respectively, and that FDTC's other proposed tests did not address the pressure requirements of the leakproofness and hydrostatic pressure tests required for packagings intended for liquid hazardous materials.

RSPA's Acting Administrator affirmed the denial of FDTC's application for an exemption and found that the standards proposed by FDTC would not achieve a level of safety "at least equal to that specified in the regulation from which the exemption is sought." 49 CFR 107.103(b)(9)(1). (Attachment A to IFDI's written comments contains copies of FDTC's application for an exemption to allow the continued use, after October 1, 1996, of open-head fiber drums that do not meet the HM-181 performance-oriented packaging standards; RSPA's denials of that application; RSPA's evaluation form and issue papers; and FDTC's appeal of RSPA's denial of the application for an exemption.)

In a separate letter, which IFDI also included in its written comments (Attachment B), IFDI has asserted that the ANPRM was deficient for failing to specify factors that, according to IFDI,

Congress directed DOT to consider. These factors are set forth in the legislative history and include: (1) DOT's Hazardous Incident Reporting System as it pertains to fibre drums; (2) the fibre drum industry's own safety record; (3) the 30 years of shipping experience associated with use of these drums; and (4) existing industry standards that have led to the industry's "excellent shipping record."

## **II. Request for Additional Comment**

Based on the comments to the ANPRM, RSPA is issuing this supplemental ANPRM and scheduling a public hearing, to allow interested parties to submit additional proposals and comments with regard to alternate standards for open-head fiber drum packaging. Additional comments are requested on the issue of whether the alternate standards proposed by IFDI "will provide an equal or greater level of safety for the domestic transportation

of liquid hazardous materials than would be provided if [the HM-181] performance-oriented packaging standards were in effect," as required by Section 122(b) of the Act, particularly in light of RSPA's prior determination (on FDTC's exemption application) that similar standards did not provide an equal or greater level of safety than the HM-181 performance standards. Comments are also requested on the factors "set forth in the legislative history" of Section 122, as outlined above. Further comments are also invited on whether alternate standards, if adopted, should apply to packagings other than fiber drums, as well as with regard to Monsanto's proposal for an exception to allow non-standard fiber drums to be used for shipping hazardous wastes to incineration facilities.

Interested parties are encouraged to consult the ANPRM and submit any comments relevant to the direction in Section 122 of the Act, including, but not limited to, those matters specified in the preceding paragraph.

To facilitate the submission of further comments, RSPA is mailing to each party that has submitted comments on the ANPRM a copy of IFDI's December 12, 1994 written comments and the text of the six alternative standards proposed by IFDI. Any interested person may obtain a copy of these materials or a copy of RSPA's Action on Appeal affirming the denial of FDTC's application for an exemption, at no cost, from RSPA's Docket's Unit (see the address and telephone number set forth in ADDRESSES above).

## III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This supplemental advance notice of proposed rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This supplemental advance notice of proposed rulemaking is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

## B. Executive Order 12612

RSPA will evaluate any proposed rule in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism").

## C. Regulatory Flexibility Act

RSPA will evaluate any proposed rule to determine whether it would have a