# DEPARTMENT OF TRANSPORTATION

# Research and Special Programs Administration

### 49 CFR Parts 171 through 180

[Docket No. HM-221; Notice No. 95-11]

### RIN 2137-AC62

# Alternate Standards for Open-Head Fiber Drum Packaging

**AGENCY:** Research and Special Programs Administration (RSPA), DOT. **ACTION:** Termination of rulemaking concerning alternate standards for openhead fiber drum packaging.

SUMMARY: As directed by Section 122 of the Hazardous Materials Transportation Authorization Act of 1994, RSPA has examined whether there are alternate standards for open-head fiber drums that provide an equal or greater level of safety as the HM-181 performance standards, for the domestic transportation of liquid hazardous materials. Because RSPA finds that there are no known alternate standards that provide an equal or greater level of safety, RSPA is closing this rulemaking without proposing alternate standards. RSPA initiated this rulemaking in an advance notice of proposed rulemaking published on October 7, 1994 [59 FR 51157], and invited the submission of further proposals and comments in a supplemental advance notice of proposed rulemaking published on January 25, 1995 [60 FR 4879].

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001; telephone 202–366–4400.

# SUPPLEMENTARY INFORMATION:

# I. Background

# A. The Statute

Section 122(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Pub. L. 103–311) (the "Act") requires DOT to 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 performanceoriented 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 standard 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).

### B. HM-181 Performance Standards

As authorized by 49 CFR 171.14, "non-specification" packagings may be used until October 1, 1996, for the transportation of the following categories of liquid hazardous materials:

1. Flammable liquids with a flash point above 73°F, in packagings up to 110 gallons (55 gallons for cargo aircraft, one gallon for passenger aircraft);

2. Liquid cleaning compounds and four other liquid corrosives (coal tar dye, dye intermediate, mining reagent, and textile treating compound), in drums with a removable or "open" head (steel and fiber drums may not be larger than 55 gallons, and the limit for plastic drums is 6.5 gallons) for shipments by rail, highway, and water only; and

3. Hazardous wastes and hazardous substances not included in another hazard class (for materials with a vapor pressure exceeding 16 psi at  $100^{\circ}$ F, the packaging must be capable of withstanding the inside vapor pressure at  $130^{\circ}$ F without leaking).

The non-specification packagings authorized for use until October 1, 1996, need not meet the former "DOT" design specifications, but they must be designed, constructed and used so that there will be no identifiable release of hazardous materials to the environment under conditions normally incident to transportation and the effectiveness of the package will not be substantially reduced. 49 CFR 172.24(b); see also 49 CFR 173.24(a) (1990 ed.).

After September 30, 1996, however, fiber drums and other non-bulk packagings used for the transportation of these categories of liquid hazardous materials must meet the performanceoriented standards currently set forth in the Hazardous Materials Regulations (HMR) at 49 CFR Part 178, Subpart M. See 49 CFR 171.14(b)(6). (Non-bulk packagings are those which have a capacity up to 450 liters (119 gallons) or a net mass up to 400 kg (882 lbs.). This discussion of the HM–181 performance standards applies only to non-bulk packagings.)

For liquid hazardous materials, the tests and standard prescribed in the following sections of 49 CFR apply:

Section178.603—drop test Section178.604—leakproofness test Section178.605—hydrostatic pressure test Section178.606—stacking test Section178.608—vibration standard

These performance-oriented standards replaced DOT design specifications and were adopted in RSPA's rulemaking proceeding in Docket No. HM–181. 55 FR 52042 (Dec. 21, 1990); 56 FR 66124 (Dec. 20, 1991); 57 FR 45446 (Oct. 1, 1992). (Former DOT specifications may be found in the October 1, 1990 edition of Title 49 CFR.)

The performance standards adopted in HM-181 are based on United Nations (UN) recommendations (and sometimes referred to as "UN standards"). They are intended to simulate the normal transportation environment and to achieve international uniformity. Under the UN standards, packagings are subjected to design qualification tests as well as periodic retesting (every year for single packagings; every two years for combination packagings). 49 CFR 178.601(d), (e). In addition, each packaging designed to contain liquids must be subjected to leakproofness testing during production and before reuse. 49 CFR 173.28(b), 178.604(b)(1).

The severity of the tests to which packagings are subjected varies according to the degree of hazard of the material to be transported. Packagings for materials with the greatest hazards (in Packing Group I) must perform at a higher level than packagings designed for less hazardous materials (in Packing Groups II and III). See 49 CFR 178.603(e), 178.604(e), 178.605(d).

A drop test is required for all hazardous materials packagings marked with the UN identification. It is intended to simulate a packaging's fall in transportation, such as a fall off a hand truck or fork lift, or simply off another packaging. The minimum height for the drop test is 0.8 meters (31.5 inches or 2.6 feet) for Packing Group III materials, but greater heights are specified for Packing Group I and II materials. 49 CFR 178.603(e). A stacking test, which is required for all hazardous materials packagings other than bags, determines whether the packagings will withstand the loads that occur when packages are stacked to a height of three