

addition, paragraphs (b) and (c) would be redesignated paragraphs (a) and (b), paragraphs (e) through (k) would be redesignated paragraphs (c) through (i), and reserved paragraph (l) would be removed.

Section 179.103-5. Based on the merits of a petition [P-1048] submitted by AAR, paragraph (b)(2) would be revised to adopt requirements for the attachment of unloading connections for bottom outlets on pressure tank cars. This proposed revision would reflect existing requirements for bottom outlets on non-pressure tank cars.

Section 179.200-7. In addition to the proposed revision of the paragraph (b) table discussed previously, certain ASTM specifications would be revised to remove references to outdated publications. The entry for ASTM B 209-70, Alloy 6061 would be removed, as would footnotes 4 and 5 associated with that entry. Footnote 2 following the paragraph (d) table would be revised to reference Practice A of ASTM A 262-85, which is a definitive, rapid method of identifying, by simple etching, those specimens free of susceptibility to intergranular attack. This revision is based on a petition [P-1049] from AAR, and also requests referencing this Footnote 2 in § 179.201-4.

Section 179.200-14. The first sentence of paragraph (a) and the first sentence of paragraph (b) would be revised to recognize the new outage and filling limits for tank cars adopted in Docket HM-181.

Section 179.200-16. RSPA is proposing to revise the first sentence in paragraph (d) to require an outage scale visible through the manway opening when using a gaging device. This revision is based on the proposed changes to § 179.201-1.

Section 179.200-24. The reference to "ASTM A 285C" would be revised to read "ASTM A 516".

Section 179.201-4. This section specifies material requirements for fittings, tubes, castings, projections, and closures. Based on a petition [P-1049] submitted by AAR, this section would be revised to refer to Footnote 2 of § 179.200-7(d) rather than the AAR Specifications.

Section 179.221-1. RSPA is proposing to revise the class DOT 115A specification table as noted in the discussion of §§ 179.101-1 and 179.201-1.

Sections 179.222, 179.222-1, and 179.500-17. These sections would be removed because identical provisions are contained elsewhere in the HMR.

II. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore, was not reviewed by the Office of Management and Budget. The rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034].

The economic impact of this proposed rule is expected to result in only minimal costs to certain persons subject to the HMR and may result in modest cost savings to a small number of persons subject to the HMR and to the agency. Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted. This certification may be revised as a result of public comment.

B. Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not substantively the same as Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

(A) The designation, description, and classification of hazardous material;

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(C) The preparation, execution, and use of shipping documents pertaining to hazardous material, and requirements respecting the number, content, and placement of such documents;

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(E) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

If adopted as final, this rule would preempt State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are "substantively the same" (see 49 CFR 107.202(d) as the Federal requirements.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects, after November 16, 1990, DOT must

determine and publish in the Federal Register the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA requests comments on what the effective date of Federal Preemption should be for the requirements in this proposed rule that concern covered subjects.

C. Regulatory Flexibility Act

This proposed rule would respond to petitions for rulemaking. It is intended to provide clarification of the regulations and relax certain requirements. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

D. Paperwork Reduction Act

There are no new information collection requirements in this proposed rule.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Radioactive materials, Railroad safety.