DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590



**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**49 CFR Parts 171, 173, 177, and 178**

**[Docket No. HM163-E; Notice No. 8]**

## Withdrawal of Certain Bureau of Explosives Delegations of Authority and Proposed Miscellaneous Amendments

**AGENCY:** Materials Transportation Bureau, Research and Special Programs Administration, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Materials Transportation Bureau (MTB) proposes to issue an amendment to the Department's Hazardous Materials Regulations to (1) withdraw the two remaining delegations of authority to the Bureau of Explosives (B of E) in Part 173 and one in Part 177; (2) amend § 171.7(d) to include ·pressed Gas Association (CGA) phlets S-1.1, C-12 and C-14; and (3) ..ise § 173.86(b) and § 173.114a(d)(3) to include the Bureau of Mines, U.S. Department of the Interior, as an authorized testing agency. Also, § 178.59-16 (a) and (b) and § 178.60-20 (a) and (b) would be revised to coincide with the proposed change in § 173.303(a).

**DATE:** Comments must be received on or before December 5, 1980.

**ADDRESS:** Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th St., SW., Washington, D.C. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

**FOR FURTHER INFORMATION CONTACT:** Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, ·-472-2726).

**LEMENTARY INFORMATION:** On ..ovember 26, 1979 the MTB published Notice 79-15 (Docket HM-163D, 44 FR 67476) which proposed the withdrawal of certain delegations of authority to the B of E, including those in §§ 173.34(d) and 173.303(a). In proposing these withdrawals of authority, the MTB stated its intention to continue to recognize the B of E as a source for testing and evaluation, but to place in the Associate Director for Operations and Enforcement the authority for final approval. However, in the final rule (published in the **Federal Register** on May 19, 1980; 45 FR 32692) to Notice 79-15, the MTB stated that the proposed changes to §§ 173.34(d) and 173.303(a) were being deleted from that rulemaking, but would be included, with a proposed change to § 177.821(e), in a separate notice of proposed rulemaking.

The MTB is proposing the deletion of § 177.821(e) because we do not believe that condemned or leaking dynamite should be repacked and offered for shipment.

In keeping with our past practice to eliminate or reduce as many approval type functions as possible, the MTB is proposing to adopt a proposal submitted by the Compressed Gas Association which would eliminate the need for B of E examination and approval by the Associate Director for OE for pressure relief devices on compressed gas cylinders. This would be accomplished by incorporating by reference in § 171.7 CGA Pamphlet S-1.1, CGA Pamphlet C-12, and CGA Pamphlet C-14.

IN addition, the MTB is proposing to amend § 173.86(a)(2) and (c) by changing the Office of Hazardous Materials Regulation (OHMR) to read Associate Director for OE; paragrah (b) of § 173.86 and § 173.114a(d)(3) would be amended to include, as indicated in Notice 79-15, the Bureau of Mines, U.S. Department of Interior, as an authorized testing agency.

In consideration of the foregoing, 49 CFR 171, 173, 177 and 178 would be amended as follows.

## PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7 paragraph (d)(3) would be amended by adding paragraphs (vi), (vii) and (viii) to read:

**§ 171.7 Matter incorporated by reference.**

* * * * *

(d) * * *

(3) * * *

(vi) CGA Pamphlet S-1.1 is titled, "Pressure Relief Device Standards Part 1—Cylinders for Compressed Gases," 1979 edition.

(vii) CGA Pamphlet C-12 is titled, "Qualification Procedure for Acetylene Cylinder Design," 1979 edition.

(viii) CGA Pamphlet C-14 is titled, "Procedures for Fire Testing of DOT Cylinder Pressure Relief Device Systems," 1979 edition.

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## PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.34 the heading and the first sentence of paragraph (d) would be revised to read:

**§ 173.34 Qualification, maintenance and use of cylinders.**

* * * * *

(d) *Pressure relief device systems.* No person may offer a cylinder charged with compressed gas for transportation unless the cylinder is equipped with one or more pressure relief devices sized and selected as to type, location, and quantity and tested in accordance with CGA Pamphlet S-1.1. The pressure relief device(s) must be capable of preventing rupture of the cylinder when subjected to a fire tested conducted in accordance with CGA Pamphlet C-14, or in the case of an acetylene cylinder, CGA Pamphlet C-12. * * *

3. In § 173.86 paragraph (a)(2), the introductory text of paragraph (b), and paragraph (c) would be revised to read:

**§ 173.86 New explosives definitions; approval and notification.**

(a) * * *

(2) Has previously produced the explosive compound, mixture or device, but has made a change in the formulation, design, process or production equipment. An explosive compound, mixture or device is not considered a "new explosive" is an agency listed in paragraph (b) of this section has determined and confirmed in writing to the Associate Director for OE that there is no significant difference in its hazard characteristics from when it was previously approved.

(b) No person may offer a new explosive for transportation unless it has been examined and assigned a recommended shipping description and hazard class by the Bureau of Explosives or the Bureau of Mines and

classed and approved by the Associate Director for OE; or examined, classed, and approved by one of the following agencies:

* * * * *

(c) Except for approvals issued by the Associate Director for OE and the exception in paragraphs (d) and (e) of this section, each person who offers a new explosive for transportation, other than a new DOD explosive covered by a security classification, must file a copy of the approval for the new explosive accompanied by a supporting laboratory report or equivalent data with the Associate Director for OE before offering the new explosive for transportation.

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4. In § 173.114a paragraph (d)(3) would be revised to read:

**§ 173.114a Blasting agents.**

(d) * * *

(3) No person may offer a blasting agent for transportation unless it has been examined by the Bureau of Explosives or Bureau of Mines and classed and approved by the Associate Director for OE; or examined, classed, and approved by one of the following agencies:

(i) U.S. Department of Energy (DOE) for blasting agents made by, or under the direction or supervision of DOE; or

(ii) U.S. Army Materiel Development and Readiness Command (DRCSF), Naval Sea Systems Command (NAVSEA 04H) or HQUSAF (IGD/SEV) for blasting agents made by, or under the direction or supervision of the DOD.

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5. In § 173.303 the introductory text of paragraph (a) would be revised to read:

**§ 173.303 Charging of cylinders with compressed gas in solution (acetylene)**

(a) *Cylinder, filler and solvent requirements.* (Refer to applicable parts of Specification 8 and 8AL). Acetylene gas must be shipped in Specification 8 or 8AL (§ 178.59 or § 178.60 of this subchapter) cylinders. The cylinders shall consist of metal shells filled with a porous material, and this material must be charged with a suitable solvent. The cylinders containing the porous material and solvent, shall be tested with satisfactory results in accordance with CGA Pamphlet C-12. Representative samples of cylinders charged with acetylene shall be tested with satisfactory results in accordance with CGA Pamphlet C-12.

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## PART 177—CARRIAGE BY PUBLIC HIGHWAY

6. § 177.821 paragraph (e) would be deleted as follows:

**§ 177.821 Hazardous materials forbidden or limited for transportation.**

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(e) (Reserved)

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## PART 178—SHIPPING CONTAINER SPECIFICATIONS

7. In § 178.59-16 paragraphs (a) and (b) would be amended to read:

**§ 178.59-16 Porous filling.**

(a) Cylinders must be filled with a porous material of such structure that it will not disintegrate or sag when wet with solvent or when subjected to normal service. The porous filling material shall be uniform in quality and free of voids, except that a well drilled into the filling material beneath the valve is authorized if the well is filled with a material of such type that the functions of the filling material are not impaired. Overall shrinkage of the filling material is authorized if the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed ½ of 1 percent of the respective diameter or length but in no case to exceed ⅛ inch measured diametrically and longitudinally and that such clearances do not impair the functions of the filling material. In all cases, the filling material as installed in the cylinder must meet the requirements of CGA Pamphlet C-12.

(b) Porosity of filling material may not exceed 80 percent except that filling material with a porosity of up to 92 percent may be used when tested with satisfactory results in accordance with CGA Pamphlet C-12. A cylinder taken at random from a lot of 200 or less must be tested for porosity providing the porosity of each cylinder is not known. If the test cylinder fails, each cylinder may be tested individually and those cylinder that pass the test are acceptable.

* * * * *

8. In § 178.60-20 paragraphs (a) and (b) would be amended to read:

**§ 178.60-20 Porous filling.**

(a) Cylinders must be filled with a porous material of such structure that it will not disintegrate or sag when wet with solvent or when subjected to normal service. The porous filling material shall be *uniform in quality* [illegible] *free of voids, except that a well dri* [illegible] *into the* filling material beneath the valve is authorized if the well is filled with a material of such type that the functions of the filling material are not impaired. Overall shrinkage of the filling material is authorized if the total clearance between the cylinder shell and filling material, after solvent has been added, does not exceed ½ of 1 percent of the respective diameter or length but in no case to exceed ⅛ inch measured diametrically and longitudinally and that such clearances do not impair the functions of the filling material. In all cases, the filling material as installed in the cylinder must meet the requirements of CGA Pamphlet C-12.

(b) Porosity of filling material may not exceed 80 percent except that filling material with a porosity of up to 92 percent may be used when tested with satisfactory results in accordance with CGA Pamphlet C-12. A cylinder taken at random from a lot of 200 or less must be tested for porosity providing the porosity of each cylinder is not known. If the test cylinder fails, each cylinder may be tested individually and those cylinders that pass the test are acceptable.

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(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and Environmental Assessment are available for review in the docket.

Issued at Washington, D.C., on October 13, 1980.

**Alan I. Roberts,**

*Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.*

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