

comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before March 31, 2004.

ADDRESSES: Comments may be submitted by mail to: Joydeb Majumder, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in the direct final rule, **SUPPLEMENTARY INFORMATION** (sections IV.B.1. through 3.) which is published in the Rules Section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder, at (404) 562-9121 or via electronic mail at majumder.joydeb@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: February 17, 2004.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

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

[Docket No. RSPA-04-17167 (Notice No. 04-02)]

Regulatory Flexibility Act Section 610 and Plain Language Reviews

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

ACTION: Notice of regulatory review; request for comments.

SUMMARY: RSPA requests comments on the economic impact of its regulations on small entities. As required by the Regulatory Flexibility Act and as published in DOT's Semi-Annual Regulatory Agenda, we are analyzing the rules applicable to the transportation of explosives and of hazardous materials in cylinders to identify requirements that may have a significant economic impact on a substantial number of small entities. We

also request comments on ways to make these regulations easier to read and understand.

DATES: Comments must be received by June 1, 2004.

ADDRESSES: Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Identify the docket number RSPA-04-17167 at the beginning of your comments and submit two copies. If you want to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. You can also submit comments by e-mail by accessing the Dockets Management System on the Internet at <http://dms.dot.gov>. or by fax to (202) 366-3753.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, you can review comments by accessing the Dockets Management System at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366-8553; or Donna O'Berry, Office of Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, telephone (202) 366-4400.

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), requires agencies to conduct periodic reviews of rules that have a significant economic impact on a substantial number of small

business entities. The purpose of the review is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on December 9, 2002, listing in Appendix D (67 FR 74799) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The Research and Special Programs Administration (RSPA, we) has divided its Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process—an Analysis Year and Section 610 Review Year. For purposes of the review announced in this notice, the Analysis year began in December 2002, coincident with the Fall 2002 publication of the Semiannual Regulatory Agenda, and will conclude in the fall of 2003.

During the Analysis Year, we will analyze each of the rules in a given year's group to determine whether any rule has a significant impact on a substantial number of small entities and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. In each fall's Regulatory Agenda, we will publish the results of the analyses we completed during the previous year. For rules that have a negative finding, we will provide a short explanation. For parts, subparts, or other discrete sections of rules that do have a significant impact on a substantial number of small entities, we will announce that we will be conducting a formal section 610 review during the following 12 months.

The section 610 review will determine whether a specific rule should be revised or revoked to lessen its impact on small entities. We will consider: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other federal rules or with state or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions,

or other factors have changed in the area affected by the rule. At the end of the

Review Year, we will publish the results of our review.

The following table shows the 10-year analysis and review schedule:

RSPA SECTION 610 REVIEW PLAN—1999–2009

Title	Regulation	Analysis year	Review year
Incident reports	§§ 171.15 and 171.16	1988	N/A
Hazmat safety procedures	Parts 106 and 107	1999	N/A
General Information, Regulations, and Definitions	Part 171.		
Carriage by Rail and Highway	Parts 174 and 177	2000	N/A
Carriage by Vessel	Part 176	2001	N/A
Radioactive Materials	Parts 172, 173, 174, 175, 176, 177, 178 ...	2002	2003
Explosives	Parts 172, 173, 174, 176, 177	2003	2004
Cylinders	Parts 172, 173, 174, 176, 177, 178, 180.		
Shippers—General Requirements for Shipments and Packagings	Part 173	2004	2005
Specifications for Non-bulk Packagings	Part 178	2005	2006
Training and planning grants	Part 110.		
Specifications for Bulk Packagings	Parts 178, 179, 180	2006	2007
Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements.	Part 172	2007	2008
Carriage by Aircraft	Part 175.		

C. Regulations Under Analysis

During Year 6 (2003–2004), the Analysis Year, we will conduct a

preliminary assessment of the rules in 49 CFR Parts 172, 173, 174, 176, 177, 178, and 180 applicable to explosives transportation and to the transportation

of hazardous materials in cylinders. The review will include the following parts and subparts applicable to the transportation of explosives:

Subpart	Title
Part 172	
Subpart B	Table of Hazardous Materials and Special Provisions.
Subpart C	Shipping Papers.
Subpart D	Marking.
Subpart E	Labeling.
Subpart F	Placarding.
Part 173	
Subpart C	Definitions, Classification, and Packaging for Explosives.
Part 174	
Subpart E	Class 1 (Explosive) Materials.
Part 176	
Subpart G	Detailed Requirements for Class 1 (Explosive) Materials.
Part 177	
Subpart B: § 177.835	Loading and Unloading: Class 1 (explosive) Materials.

The review will include the following parts and subparts applicable to the

transportation of hazardous materials in cylinders:

Subpart	Title
Part 172	
Subpart B	Table of Hazardous Materials and Special Provisions.
Subpart C	Shipping Papers.
Subpart D	Marking.
Subpart E	Labeling.
Subpart F	Placarding.

Subpart	Title
Part 173	
Subpart B: § 173.40	General packaging requirements for toxic materials packaged in cylinders. Non-bulk Packaging for Hazardous Materials Other than Class 1 and Class 7. Gases; Preparation and Packaging.
Subpart E	
Subpart G	
Part 174	
Subpart F	Detailed Requirements for Class 2 (Gases) Materials.
Part 176	
Subpart H	Detailed Requirements for Class 2 (Compressed Gas) Materials.
Part 177	
Subpart B: § 177.840	Loading and Unloading: Class 2 (gases) Materials Division 6.1 (poisonous) and Division 2.3 (poisonous gas) materials.
§ 177.841	
Part 178	
Subpart C	Specifications for Cylinders.
Part 180	
Subpart C	Qualification, Maintenance, and Use of Cylinders.

We are seeking comments on whether any requirements for explosives transportation or the transportation of hazardous materials in cylinders in Parts 172, 173, 174, 176, 177, and 178 have a significant impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity and if any of the transportation requirements applicable to the transportation of explosives or cylinders in Parts 172, 173, 174, 176, 177, and 178 has a significant economic impact on your business or organization, please submit a comment explaining how and to what degree these rules affect you, the extent of the economic impact on your business or organization, and why you believe the economic impact is significant.

II. Plain Language

A. Background and Purpose

Plain language helps readers find requirements quickly and understand

them easily. Examples of plain language techniques include:

(1) Undesignated center headings to cluster related sections within subparts.

(2) Short words, sentences, paragraphs, and sections to speed up reading and enhance understanding.

(3) Sections as questions and answers to provide focus.

(4) Personal pronouns to reduce passive voice and draw readers into the writing.

(5) Tables to display complex information in a simple, easy-to-read format.

For an example of a rule drafted in plain language, you can refer to RSPA's final rule entitled "Revised and Clarified Hazardous Materials Safety Rulemaking and Program Procedures," which was published June 25, 2002 (67 FR 42948). This final rule revised and clarified the hazardous materials safety rulemaking and program procedures by rewriting 49 CFR Part 106 and Subpart A of Part 107 in plain language and creating a new part 105 that contains definitions and general procedures.

B. Review Schedule

In conjunction with our section 610 reviews, we will be performing plain

language reviews of the HMR over a 10-year period on a schedule consistent with the section 610 review schedule. Thus, our review of requirements in Parts 172, 173, 174, 176, 177, and 178 applicable to the transportation of explosives and of hazardous materials in cylinders will also include a plain language review to determine if the regulations can be reorganized and/or rewritten to make them easier to read, understand, and use. We encourage interested persons to submit draft regulatory language that clearly and simply communicates regulatory requirements, and other recommendations, such as putting information in tables or consolidating regulatory requirements, that may make the regulations easier to use.

Issued in Washington, DC on February 23, 2004 under authority delegated in 49 CFR Part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration.

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