(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: April 6, 1983.

**D. L. Eyres,**

*District Engineer Sacramento, California.*

[FR Doc. 83-9822 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

**[Number: 150-39]**

### Creation of the Sacramento, the San Jose, and the Laguna Niguel, California Internal Revenue District

March 28, 1983.

Under the authority given to the President to establish Internal Revenue Districts by Section 7621 of the Internal Revenue Code, as amended, and vested in me a Secretary of the Treasury by Executive Order 10289, approved September 17, 1951, as made applicable to the Internal Revenue Code of 1954 by Executive Order 10574, approved November 5, 1954, and persuant to the authority vested in me by 31 U.S.C. 321, 96 Stat. 877 at 880, September 13, 1982 (formerly Reorganization Plan No. 26 of 1950), and Reorganization Plan No. 1 of 1952 as made applicable to the Internal Revenue Code of 1954 by Section 7804(a) of such code and Executive Order 10574, it is ordered that:

The Los Angeles and San Francisco Internal Revenue Districts be modified as specified below; and

There be established the Sacramento Internal Revenue District, the San Jose Internal Revenue District, and the Laguna Niguel Internal Revenue District with the jurisdictions described below.

1. *Los Angeles District.* Shall include the County of Los Angeles, except for that portion serviced by the Carson post of duty, in the State of California, with the headquarters office located in Los Angeles, California. (The Carson post of duty services the area of Los Angeles County which is generally bordered by the Artesia Freeway on the north, the Pacific Ocean on the west and south, and the Orange County line on the east, and includes in total the following 1982 zip code areas: 90254, 90274, 90277, 90278, 90501, 90502, 90503, 90504, 90505, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90731, 90732, 90744, 90745, 90746, 90747, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90813, 90814, 90815, and 90840.)

2. *Laguna Niguel District.* Shall include the Counties of Imperial, Orange, Riverside, San Bernardino, San Diego, and that portion of Los Angeles County serviced by the Carson post of duty, in the State of California, with the headquarters office located in Laguna Niguel, California. (The Carson post of duty services the area of Los Angeles County which is generally bordered by the Artesia Freeway on the north, the Pacific Ocean on the west and south, and the Orange County line on the east, and includes in total the following 1982 zip code areas: 90254, 90274, 90277, 90278, 90501, 90502, 90503, 90504, 90505, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90731, 90732, 90744, 90745, 90746, 90747, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90813, 90814, 90815, and 90840.)

3. *San Jose District.* Shall include the Counties of Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura, in the State of California, with the headquarters office located in San Jose, California.

4. *Sacramento District.* Shall include the Counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba in the State of California, with the headquarters office located in Sacramento, California.

5. *San Francisco District.* Shall include the counties of Alameda, San Francisco and San Meteo, in the State of California, with the headquarters office located in San Francisco, California.

6. *Internal Revenue Districts.* Each District established by this Order pursuant to Section 7621 of the Internal Revenue Code of 1954, as amended, shall be known as an Internal Revenue District and shall be identified by the name of the city or subdivision thereof, in which the headquarters office is located.

7. *District Director of Internal Revenue.* The title of each District Office shall bear the title "District Director of Internal Revenue" identified by the name of the city or subdivision thereof, in which the headquarters office is located.

8. *Effect on Prior Treasury Department Orders.* Treasury Department Order 150-39, dated June 22, 1955, is superseded and in Treasury Department Order No. 150-20, dated November 21, 1952, paragraphs 4(a) and 4(b) are superseded.

9. *Implementation.* The provisions of paragraphs numbered 1-4 of this Order shall be implemented upon such date as the Commissioner of Internal Revenue may determine. Effective immediately, the Commissioner of Internal Revenue is authorized to effect, at appropriate times and in an orderly manner, such transfers of functions, personnel, positions, equipment, and funds as may be necessary to implement the provisions of this Order.

**Donald T. Regan,**

*Secretary.*

[FR Doc. 83-9844 Filed 4-13-83; 8:45 am]

BILLING CODE 4810-25-M

# Sunshine Act Meetings

Federal Register
Vol. 48, No. 73
Thursday, April 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:40 p.m. on Friday, April 8, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Ina State Bank, Ina, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies on April 8, 1983; (2) accept the bid for the transaction submitted by First Bank and Trust Co., Mount Vernon, Mount Vernon, Illinois; (3) approve the application of First Bank and Trust Co., Mount Vernon, Mount Vernon, Illinois, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Ina State Bank, Ina, Illinois, and to establish the offices of The Ina State Bank as facilities of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

At the same meeting, the Board of Directors considered certain personnel matters.

At the same meeting, the Board of Directors: (1) Received bids for the purchase of certain assets of an the assumption of the liability to pay deposits made in Bank of San Marino, San Marino, California, which was closed by the Acting Superintendent of Banks for the State of California on April 8, 1983; (2) accepted the bid for the transaction submitted by Trans American National Bank, Monterey Park, California; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the Meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 11, 1983.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[S-524-83 Filed 4-12-83; 11:21 am]

BILLING CODE 6714-01-M

2

**FEDERAL ELECTION COMMISSION**

"Federal Register" No. 481

**DATE AND TIME:** Tuesday, April 12, 1983, 10 a.m.

**CHANGE IN MEETING:** This meeting will be continued on *Wednesday, April 13, 1983 at 2 p.m. and Thursday, April 14, 1983 following the open meeting,* if necessary, to conclude the agenda of April 12, 1983.

* * * * *

**DATE AND TIME:** Tuesday, April 19, 1983, 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Compliance. Personnel. Litigation. Audits.

* * * * *

**DATE AND TIME:** Thursday, April 21, 1983, 10 a.m.

**PLACE:** 1325 K Street NW., Washington, D.C. (fifth floor).

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings
Correction and approval of minutes
Eligibility reports for candidates to receive Presidential primary matching payments:
Draft AO 1983-8: Jan W. Baran, on behalf of the National Republican Senatorial Committee
Candidate's use of property in which spouse has an interest (18 CFR Parts 100, 110, and 9003)
Finance Committee report
Revised non-filer procedures: Directive 1
Routine Administrative matters

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Fred Eiland, Information Officer, telephone: 202-523-4065.

**Marjorie W. Emmons,**

*Secretary of the Commission.*

[S-525-83 Filed 4-12-83; 3:41 pm]

BILLING CODE 6715-01-M

3

**FEDERAL MARITIME COMMISSION**

**TIME AND DATE:** 9 a.m., April 20, 1983.

**PLACE:** Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

**STATUS:** Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Portions open to the public:

1. Agreement No. 9474-8: Modification of the Thailand/Pacific Freight Conference Agreement to add interior United States point intermodal authority.
2. Classification of Controlled Carriers Pursuant to the Shipping Act, 1916—Pharaonic Shipping Co., SAE.
3. Docket No. 76-63: Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916—Petitions for Reconsideration.

Portions closed to the public:

1. Dart Containerline Co., Ltd. v. Federal Maritime Commission, No. 82-1403, U.S. Court of Appeals for the District of Columbia Circuit.
2. U.K./U.S.A. Gulf Westbound Rate Agreement and Continental/U.S. Gulf Freight Association v. Federal Maritime Commission D.C. Cir. No. 81-1604—Order on Remand.
3. Docket No. 81-64: Midland Pacific Shipping Co., Inc.—I.O.F.F. Lic. No. 1229, Leyden Shipping Corp.—I.O.F.F. Lic. No. 829, Person & Weidhorn, Inc.—I.O.F.F. Lic. No. 122—Discussion of the record.

**CONTACT PERSON FOR MORE INFORMATION:** Francis C. Hurney, Secretary (202) 523–5725.

[S–528–83 Filed 4–12–83; 3:54 pm]

BILLING CODE 6730–01–M

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4

**PAROLE COMMISSION**

**TIME AND DATE:** 9 a.m. to 10:30 a.m., Thursday, April 21, 1983.

**PLACE:** Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**STATUS:** Closed pursuant to a vote to be taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Appeals to the Commission of approximately 8 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

**CONTACT PERSON FOR MORE INFORMATION:** Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

[S–526–83 Filed 4–12–83; 3:43 pm]

BILLING CODE 4410–01–M

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5

**PAROLE COMMISSION**

**TIME AND DATES:** 10:30 a.m.–5:30 p.m., Thursday, April 21, 1983 and 9 a.m.–5:30 p.m., Friday, April 22, 1983.

**PLACE:** Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of minutes of open meeting of January 26 through January 28, 1983.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Case Operations, and Administrative Section.

Presentation: *The Dangerous Offender* by Mr. John Conrad, Visiting Fellow at the National Institute of Justice.

4. Prison Population Trends.
5. Referral of Cases to the Pardon Attorney.
6. Pre-Review Procedure.
7. Proposed Parole Commission implementation of the Victim and Witness Protection and Assistance Act of 1982 (Pub. L. 97–291).
8. Rewarding prisoners for Cooperation with law enforcement authorities.
9. Proposed revision of the rescission guidelines.
10. Counting prior convictions for minor offenses.
11. Proposed new or amended Severity Ratings.
12. Expediting Revocation procedures through use of a combined preliminary interview/revocation hearing.
13. Training Aid for rating offense Severity.
14. State Cases with Superior Program Achievement.
15. Simplification of certain rules:

(a) Refusal to Sign parole Certificate;

(b) Narcotic Addict Rehabilitation Act Recertification;

(c) Elimination of repetitive or obsolete Language.

16. Supplemental Warrant Applications after the full-term date.

**CONSENT AGENDA:** The following consent agenda items, only if previously requested to be opened for discussion at the meeting on or before April 15, 1983:

17. Procedures Manual Revisions effected by Rules and Procedures Memorandum 83/1.
18. Procedures Manual Revisions effected by Rules and Procedures Memorandum 83/2.
19. Training Aid 83–001.
20. Training Aid 83–002.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5980.

[S–527–83 Filed 4–12–83; 3:44 pm]

BILLING CODE 4410–01–M

federal register

Thursday
April 14, 1983

Part II

# Department of Transportation

## Federal Aviation Administration

## Designated Airworthiness Representatives and Advisory Circular

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 183**

**[Docket No. 23140; Amdt. No. 183-8]**

## Designated Airworthiness Representatives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment to Part 183 of the Federal Aviation Regulations (FAR) establishes the Designated Airworthiness Representative (DAR) as a new category of person appointed, under Section 314 of the Federal Aviation Act of 1958 (FA Act), to act as a representative of the Administrator in performing certain certification functions under Title VI of the FA Act. The amendment expands the FAA designee program into new areas of delegation not previously provided in Part 183. The expanded delegations are necessary to deal with the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, and the issuance of certificates, under Title VI of the FA Act. This amendment will enable the FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the amendment will ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and will reduce or eliminate delays in obtaining required certifications.

**EFFECTIVE DATE:** May 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 314 of the FA Act permits the Secretary of Transportation to delegate to any properly qualified private person any work, business, or function respecting: (1) The examination, inspection, and testing necessary to issue certificates under Title VI of the FA Act, and (2) the issuance of such certificates under Title VI of the FA Act, subject to regulations, supervision, and review as he may prescribe. These certificates include but are not limited to: type certificates; supplemental type certificates; production certificates; airworthiness certificates; export approvals and certificates; components certifications; airman certificates; air carrier/operator's certificates; and air agency certificates. Approved production inspection system authorizations and technical standard order authorizations also come within the purview of Title VI of the Act.

Private persons selected to act as designees are Representatives of the Administrator as described in Part 183 of the Federal Aviation Regulations. This "designee system" has been used extensively within the FAA for over 20 years and has been highly successful. For example, there are now approximately 850 private persons with delegated authority to function as Designated Manufacturing Inspection Representatives (DMIR's) of the Administrator, augmenting a workforce of approximately 140 FAA manufacturing inspectors. DMIR's conduct numerous inspections and certifications on behalf of the FAA, enabling the FAA to meet its safety objectives with a minimal number of FAA manufacturing inspectors. A DMIR authorization, however, is limited to the facilities of the manufacturer by whom the DMIR is employed. Part 183 also provides for the appointment of Designated Aircraft Maintenance Inspectors (DAMI's) with a delegation of authority limited to only one function. The FAA, therefore, finds it necessary to expand the designee program to respond to the many requests for FAA examination, inspection, and testing services relating to certification functions that were not within the very limited scope of designations previously authorized by Part 183. Viewed in the context of increased foreign and domestic demand for FAA inspection and certification services, Part 183 did not provide the FAA with sufficient flexibility to fully utilize its statutory authority to delegate examination, inspection, and testing functions regarding issuing Title VI certificates.

On May 27, 1982, the FAA issued Notice of Proposed Rulemaking (NPRM) No. 82-9 (47 FR 27472; June 24, 1982). The notice proposed to establish DAR's as a new category of persons appointed under Section 314 of the FA Act to serve as Representatives of the Administrator in performing certain certification functions.

Information collection requirements contained in this regulation (§ 183.11) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2120-0035.

### Discussion

Although no present need has been established to expand delegations in the area of engineering, as opposed to maintenance and manufacturing, this amendment provides for such expansion should the need arise. The expanded delegations go beyond those previously contained in Part 183, yet remain within those authorized by Section 314 of the FA Act, an approach which is consistent with the goal of reducing costs by streamlining the operations of the Government. This amendment also eases the burden of regulation on the aviation community by expediting the accomplishment of demonstrations of compliance required before the issuance of requested certifications. It will reduce delays commonly experienced by modifiers during supplemental type certification programs due to unavailability of FAA personnel, and thus expedite introducing new products. Delays encountered by persons attempting to return aircraft to service following maintenance/alterations also will be minimized.

By providing for the appointment of qualified persons as DAR's to perform functions not previously authorized in Part 183, the FAA can safely and efficiently increase the productivity of its staff in areas most affecting safety. Those areas in which DAR's may be utilized in the immediate future include: issuing export approvals and export certificates of airworthiness; conducting conformity inspections for modification programs; issuing airworthiness certificates for aircraft; and certifying components produced under bilateral airworthiness agreements.

Delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness and may be withdrawn by the appointing authority at any time and for any reason deemed appropriate.

Since every examination, inspection, and testing function delegated to DAR's under the amendment cannot presently be envisioned, it is not possible to specify by regulation all areas in which a DAR may serve consistent with the stated objectives of the amendment. Accordingly, those functions which may be delegated by the Director of Airworthiness are described in an advisory circular (AC) which is being published concurrently with this amendment and which will be available from the U.S. Department of Transportation, Publication Section (M-

442.32) Washington, D.C. 20590. The FAA intends to revise and republish the advisory circular to seek public comment each time it is proposed to add or delete an authorized function. Additional areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community.

Consistent with other delegations already provided for in Part 183, this amendment does not mandate the use of DAR's. The election to use such representatives is left entirely to the discretion of the certificate applicant. Also, as with other designees, DAR's may charge the applicant a fee for their services, and DAR's will be subject to FAA surveillance with regard to monitoring and supervising their delegated tasks. It should be noted that the FAA will not reimburse any designee appointed under Part 183 for any expense incurred by the designee in performing authorized functions.

**Discussion of Comments**

A total of 28 individuals and associations submitted comments on the proposal. Fourteen commenters concur with the proposal as written. Twelve commenters concur but include comments. Two commenters support the DAR program concept and intent but indicate that certain areas should be further defined or clarified. Most commenters fully support the proposed DAR amendment, indicating that it will fill a vital need and have positive economic advantages for both the public and the FAA, with no adverse impact on safety. Many of the comments submitted in response to the NPRM also contain recommendations or take issue with certain aspects of the proposed DAR advisory circular (AC). Accordingly, comments relating to both the NPRM and the proposed AC are discussed in the following paragraphs.

**Qualification Criteria**

Several commenters indicate a need to publish the qualification criteria to be employed by the FAA for selecting and appointing DAR's. Accordingly, these criteria have been incorporated in an Appendix of the DAR AC. This information will also be made readily available for review at FAA offices identified in the AC.

Several commenters submitted recommendations relative to basic qualification criteria for use in the DAR selection process. These recommendations have been taken into consideration in formulating the criteria.

**Expansion or Clarification of Functions**

A number of commenters request that the FAA consider further expansion of delegated functions beyond those addressed by the proposed AC. Several commenters also request clarification relative to those functions for which designations may be authorized.

The additional functions requested include: Issuance or amendment of air agency, repairman, and school certificates; issuance of experimental certificates for amateur-built aircraft; revision of maintenance/operations specifications; field approval and return to service via FAA Form 337; determination of compliance with quality control systems; and issuance of special flight permits, provisional airworthiness certificates, and special flight authorizations.

After a thorough evaluation, it has been determined that authorized functions can be expanded to include the issuance of certain special flight permits and experimental certificates for amateur-built aircraft. However, a rapid expansion of delegated functions might severely curtail the FAA's ability to adequately monitor and control this program. Therefore, other than the two aforementioned functions, the FAA does not plan to expand DAR authorization to include any other functions until sufficient experience is gained to ensure safety will not be derogated.

With respect to clarifying delegated functions authorized by the Director of Airworthiness, the AC is revised to identify more explicitly those functions, including the specific types of airworthiness certificates and export approvals which may be issued in the areas of maintenance and manufacturing.

**Training Requirements**

Several commenters state a need to establish training criteria for newly appointed DAR's. The FAA agrees that this is necessary and will provide certain training for all DAR's. This training will normally be accomplished by the FAA office which has responsibility for monitoring and supervising a DAR's activity. Training will be provided upon appointment and on an ongoing basis, as necessary.

The FAA also has initiated action to develop an optional training course to be given at the FAA Academy at Oklahoma City. The cost of this course will be borne by the FAA on behalf of DAR's electing to participate. Each DAR desiring to take the course will be expected to pay for his/her expenses and transportation.

It should be noted that DAR training will be limited to familiarization with FAA administrative procedures (for example, processing forms, etc.). Training in technical areas will not be provided since the FAA will require that a DAR applicant have the necessary technical expertise as a prerequisite to appointment.

**Monitoring and Supervision**

Three commenters ask how DAR activities will be monitored and supervised. Consistent with other designee categories, all DAR's will be monitored and supervised as appropriate for the particular authorized functions. This would include: Review of all official forms initiated by a DAR; random post-audit inspections of products which have been certificated by DAR; accompanying a DAR during the inspection of a product to ensure that satisfactory techniques, methods, and procedures are being used; etc. This normally will be accomplished in accordance with FAA internal directives by the FAA office that issues the designation.

**Procedural Aspects**

Several commenters indicate a need to publish certain procedural aspects, including: scope of authority; training methods; FAA methods of auditing DAR activities; extent of DAR utilization; manner in which DAR's will coordinate with FAA; various FAA forms to be used; and DAR supervision criteria.

Consistent with other categories of designees, DAR procedural matters will be distributed through FAA directives and provided to DAR's as appropriate, and also will be available for review by interested persons at any FAA Aircraft Certification or Flight Standards office.

**Miscellaneous Comments**

One commenter indicates that the proposed AC could by interpreted as requiring an applicant for DAR appointment to possess credentials in all three disciplines; that is, manufacturing, maintenance, and engineering. It is the FAA's intent that an applicant for DAR appointment would only be expected to have the experience and qualifications appropriate to the particular function for which authorization is sought. For example, if a person is seeking appointment as a DAR only for the purpose of conducting conformity inspections, that person's qualifications could be limited to those necessary to perform that particular task.

A commenter expresses concern that eligibility requirements may be such that only former FAA employees would be

appointed as DAR's. The commenter believes it is imperative to have a proper mix of former FAA employees and industry persons selected as DAR's. The FAA expects a number of former FAA employees to apply for, and be issued, DAR authorizations. However, experience with other categories of designees, such as Designated Engineering Representatives (DER's), has shown that the majority of appointees are from industry. Many DMIR's and persons having FAA Inspection Authorizations are qualified to perform certain of the authorized DAR functions.

One commenter believes that a dual DMIR/DAR appointment would be advantageous since the DMIR authorization could be used for production purposes and the DAR authorization could be used for conformity certifications on components being produced under bilateral airworthiness agreements (a function which cannot be authorized for a DMIR under current regulations). The commenter, however, believes that such a dual appointment might create certain procedural problems. The FAA does, in fact, envision dual appointments such as DMIR/DAR, and DER/DAR, and does not anticipate procedural problems.

One commenter asks whether DAR's will be appointed to meet FAA or industry needs or desires. While there will be no requirement to substantiate the need for DAR appointment as a prerequisite for appointment, the FAA fully expects that those persons appointed as DAR's will be reasonably active in performing authorized functions. Lack of activity for an extended period of time would be cause for terminating a DAR appointment, since administrative costs associated with continuing an inactive appointment could not be justified, and continued currency of experience and familiarity with FAA regulations and government/industry practices and policies could no longer be assured.

Two commenters express concern that the acronym "DAR" may be confused with the DAR (Design Approval Representative) used by the Canadian civil air authorities. The FAA does not believe this will present a problem, except perhaps in those areas which involve Canadian products. In these and other instances where the acronym could be confused, the FAA would suggest using "FAA" as a prefix; that is, "FAA–DAR."

One commenter questions how DAR fees are to be determined. Fees should be negotiated between the DAR and the user of the DAR's services. Although the FAA has statutory authority to prescribe maximum fees which may be charged by designees, the FAA has not found it necessary to do so with other designee programs.

One commenter questions whether or not the FAA will provide liability insurance for DAR's while acting on the FAA's behalf. As with other categories of designees, the FAA will not provide such insurance coverage.

Another commenter questions whether the DAR, the DAR's employer, or the FAA could be held liable for a DAR's actions. Like any other person, a DAR can be held legally accountable and liable for negligent conduct. Similarly, if a DAR has been negligent in his/her capacity as an employee, the employer may also be held accountable and potentially liable. The United States has consistently taken the position that Representatives of the Administrator are not employees of the FAA. Therefore, the FAA neither provides for their legal defense nor considers itself to be liable for a designee's negligent conduct.

Several comments were received concerning the limitations of authority for a DAR. The FAA will issue a certificate of authority to each DAR which will limit the DAR's authority to those functions for which the DAR has been determined qualified. Limitations also may be prescribed within each authorized function, where deemed appropriate. For example, a DAR may be authorized to issue standard airworthiness certificates limited to small aircraft only. Another example would be authority to issue export approvals limited to small rotorcraft only. Such limitations would be based the qualifications and expertise of the particular DAR.

One commenter suggests that the proposal places heavy emphasis on manufacturing, but does not extend into the area of maintenance. Although the proposal may have been perceived in this manner, there was no intent to place greater emphasis on manufacturing over maintenance. In the interest of clarification, the AC will categorize the maintenance and manufacturing functions. The commenter also questions if the FAA plans to convert other FAA designee categories to DAR's. The FAA has no such plan at this time.

One commenter recommends that no geographical limitations be placed on a DAR's activity. Generally, the FAA will limit a DAR to functions within the geographical area of the appointing FAA office to ensure monitoring and supervising capability. However, DAR may perform those functions outside of this area when authorized by the appointing FAA office. If a DAR elects to relocate to another geographical area, the FAA monitoring and supervisory task will be transferred to the appropriate FAA office in that area.

Two commenters suggest that it would be in their own interest and that of the FAA to appoint DAR's for service in Europe, Africa, and the Middle East. They argue that this would result in savings to the FAA, which is often pressed to carry out its overseas mission with limited manpower, and would preclude costly delays in obtaining required FAA certifications and approvals. The FAA does not object to appointing DAR's in foreign countries, although the FAA might not have the necessary resources to monitor and supervise their activities. Accordingly, the FAA will consider appointing DAR's in a foreign country only when it is determined that there would be no undue burden on the FAA in administering the particular program. This would not prevent appointing DAR's to travel to foreign countries to issue airworthiness certificates/tags and export approvals on aircraft and related products.

A commenter questions whether a DAR employed by a particular individual would be on call to FAA to respond to requests for services from other persons, facilities, or locations. The FAA does not require any DAR to be on call to provide services to any person or organization. The use of such representatives is at the discretion of the applicant seeking required certification or approval. One commenter asks whether a DAR's authority would be confined to activity on behalf of his/her employer, unless self-employed. Unlike a DMIR designation, the FAA would not confine a DAR's activity to the DAR's employer.

One commenter recommends that the FAA ensure that safety will not be compromised by inadequate monitoring of the DAR program. The commenter suggests that the FAA establish controls to ensure accountability and to detect and correct instances in which safety considerations may tend to be affected by inherent conflict of interest pressures under which a DAR might be forced to operate. The FAA recognizes the need to provide for adequate controls in monitoring this program. Accordingly, consistent with other designee categories, the FAA will establish internal procedures to ensure that the DAR program will be properly directed toward the FAA's safety objectives.

One commenter asks whether DAR appointments will be of individual persons or of organizations. The FAA

envisions the majority of DAR appointees will be individuals. Since the term "person" is defined in Federal Aviation Regulations, Part 1, to include an individual, firm, partnership, corporation, company, association and joint-stock association, such organizations may be considered for appointment as DAR's. In these instances, the organization would be required to submit, along with its application for DAR authorization, the names, signatures, titles, and qualifications of those persons who would actually perform the authorized functions. Addtionally, such an organization must also submit a procedure, acceptable to the FAA, which positively ensures that only such appropriately qualified persons perform authorized functions. It should be noted that the FAA will hold the organization responsible for complying with the conditions of the DAR appointment, with any necessary corrective actions to be directed at the organization.

**Economic Evaluation**

*Benefits*

Economic benefits of the DAR program will be derived from cost savings or improved efficiency. Applicants for certification services will benefit primarily through reductions in costly delays in obtaining certifications required to conduct aviation-oriented enterprises. FAA monitoring and supervision of the DAR program will ensure that the present level of aviation safety will not be diminished. In fact, safety will be enhanced because FAA personnel relieved from tasks accomplished by DAR's will be able to redirect their efforts to other areas affecting safety.

Comments relating to economic benefits indicate that there would be industry cost savings from improved efficiency and reduction of delays in obtaining certifications. One commenter relates that he had to ferry a B-707 to the United States from Singapore to obtain an airworthiness certificate, an example of an expense which could be eliminated by this amendment. Other commenters cite difficulty in arranging FAA aircraft inspections in a timely manner, and expect that the rule will alleviate this problem. After the close of the comment period, the FAA received a letter from a U.S. aircraft modifier indicating that delays in delivering an aircraft located in West Germany, because of the FAA's inability to support a proposed modification program schedule, will create a financial burden of approximately $2,500 per day to the aircraft owner. Such problems could also be alleviated by the rule.

Clearly the DAR program will be of benefit in reducing government costs by permitting certain FAA functions to be undertaken by qualified private persons or organizations.

Based on the high degree of interest and the urgent need for DAR's as expressed by commenters and the numerous inquiries received concerning DAR appointments, the FAA anticipates that the DAR program will be as well received by the aviation public and industry as have been other categories of designees.

*Costs*

No costs need be incurred by any applicant requiring FAA certification services since the use of a DAR to obtain FAA certification is optional. The FAA will continue to issue required certifications, in accordance with existing practice and policy. Therefore, an applicant determines, at his/her option, when the use of a DAR would prove economically advantageous. None of the comments from industry indicate that this rule will impose additional costs. Those that do address the economic factors indicate that cost savings will result.

There is no cost to the applicant for DAR authorization approval.

The cost of the DAR program to the FAA will be negligible. Although there are selection, training, and orientation costs associated with initiating the program, these are more than offset since DAR's will perform tasks that would otherwise be performed by the FAA.

*Regulatory Flexibility Determination*

The FAA has determined this rule will not have a significant economic impact on a substantial number of small entities, even though it authorizes fees to be charged for certification services.

This determination is based on the FAA's experience with other designees permitted to charge for their services. Generally, fees have been such that any business or person could afford the services of a designee without being placed at a competitive disadvantage. Additionally, small entities requiring certification services need not engage DAR's, but may continue to request the services of FAA personnel, which will be provided consistent with existing practice and policy.

**List of Subjects in 14 CFR Part 183**

Airmen, Air safety, Safety, Aviation safety, Air transportation, Aircraft.

**The Amendment**

Accordingly, Part 183 of the Federal Aviation Regulations (14 CFR Part 183) is amended as follows, effective May 16, 1983.

## PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

1. By amending § 183.11 by adding a new paragraph (e) to read as follows:

**§ 183.11 Selection.**

* * * * *

(e) The Director of Airworthiness, or the Director's designee, may select Designated Airworthiness Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Airworthiness Representative."

(Approved by the Office of Management and Budget under OMB control number 2120-0035)

2. By amending § 183.13 by adding a new paragraph (c) to read as follows:

**§ 183.13 Certification.**

* * * * *

(c) A "Certificate of Authority," stating the specific functions which the person concerned is authorized to perform and stating an expiration date, is issued to each Designated Airworthiness Representative, along with a "Certificate of Designation" for display purposes.

3. By amending § 183.15 by amending paragraphs (a) and (b) by removing the words "under paragraph (c)" and by inserting, in their place, the words "under paragraph (d)"; by redesignating paragraph (c) as (d); and by adding a new paragraph (c) to read as follows:

**§ 183.15 Duration of certificates.**

* * * * *

(c) Unless sooner terminated under paragraph (d) of this section, a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the Certificate of Authority.

* * * * *

4. By adding a new § 183.33 to read as follows:

**§ 183.33 Designated Airworthiness Representative.**

A Designated Airworthiness Representative (DAR) may, within limits prescribed by and under the general supervision of the Administrator, do the following:

(a) Perform examination, inspection, and testing services necessary to the issuance of certificates, including

issuing certificates, in the areas of maintenance, manufacturing, and engineering as may be authorized by the Director of Airworthiness.

(b) Charge a fee for his or her services.

(c) Perform authorized functions at any authorized location.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); Sec.6(c) Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—This rule establishes a procedure for designating persons to perform certain certification functions previously conducted only by FAA employees, thereby reducing or eliminating certain delays in obtaining required certifications. Further, this document involves a rulemaking action which: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparing a regulatory evaluation because the costly changes associated with the designation procedures are minimal. In addition, I certify that, under the criteria of the Regulatory Flexibility Act, the amendments will not have a significant economic impact on a substantial number of small entities since it will minimally ease the burden of regulatory compliance by reducing certain delays on obtaining required certifications.

Issued in Washington, D.C., on February 14, 1983.

J. Lynn Helms,

*Administrator.*

[FR Doc. 83-0744 Filed 4-13-83; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[AC 183-33]

### Advisory Circular for Designated Airworthiness Respresentatives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final.

**SUMMARY:** This advisory circular (AC) will be used as the vehicle to identify examination, inspection, and testing services related to certification functions in the areas of maintenance, manufacturing, and engineering, which may be delegated to Designated Airworthiness Representatives (DAR's), as may be authorized by the Director of Airworthiness.

**EFFECTIVE DATE:** May 16, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8361.

**SUPPLEMENTARY INFORMATION:**

#### Discussion of the Advisory Circular

The FAA has amended Part 183 of the Federal Aviation Regulations (published elsewhere in this issue). This amendment provides for the establishment of Designated Airworthiness Representatives (DAR's) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions under Title VI of the FA Act. This amendment to Part 183 enables the FAA to expand its designee program into new areas of delegation not previously provided for in Part 183. The expanded delegations are necessary since the delegations previously authorized by Part 183 constrained the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services incident to the issuance of certificates under Title VI of the FA Act. This amendment now enables FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the amendment will ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and will, therefore, reduce or eliminate certain delays in obtaining required certifications.

As provided, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness, and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the amendment cannot be envisioned, it was not possible to specify, by regulation, all areas where a DAR's services may be used consistent with the stated objectives of the amendments. Accordingly, this AC contains those specific functions which may be delegated in the immediate future. The FAA intends to revise and republish this AC to seek public comment each time revisions are proposed to add or delete any authorized function. Proposed new areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community. This procedure will expedite the notification process each time a designated function is to be added or deleted. Consistent with the President's goal of streamlining the regulatory process to eliminate unnecessary requirements, the use of this AC to list specific functions appropriate for delegation to DAR's will provide the FAA with the regulatory flexibility to utilize the DAR program in the most effective and innovative manner.

#### Discussion of Comments

A total of six individuals and association submitted comments on the proposed AC (47 FR 27475, June 24, 1982). Two commenters concur with the proposal as written. Three commenters concur but also included comments. One commenter supports the DAR program concept but indicates that certain areas should be further defined or clarified. The comments submitted in response to the proposed AC closely parallel those submitted in response to the proposed amendment to Part 183. Accordingly, the FAA discussion of comments relating to both the Notice of Proposed Rulemaking and the proposed AC is contained in the preamble to the amendment to Part 183 (published elsewhere in this issue). Based on the public comments relating to the AC, the AC has been revised to clarify the following areas:

1. Qualification criteria.
2. Training.
3. Specific functions within maintenance, manufacturing, and engineering which may be delegated by the Director of Airworthiness.
4. Monitoring and Supervision.
5. Limits of Authority.
6. Appointing Authority.

#### The Advisory Circular

In accordance with the above, the FAA publishes AC 183-33, Designated Airworthiness Representatives, as follows.

**M. C. Beard,**

*Director of Airworthiness.*

Issued in Washington, D.C., on February 14, 1983.

**Advisory Circular**

Subject:

Date: February 14, 1983. AC No: 183-33.

Initiated by: AWS-200. Change:

Designated Airworthiness Representatives

1. *Purpose.* This advisory circular (AC) contains information and guidance concerning the selection and appointment of Designated Airworthiness Representatives (DAR's) and identifies the specific functions which may be delegated to DAR's as authorized by the Director of Airworthiness. This AC is effective on the day the amendment to FAR 183 to include DAR's becomes effective.

2. *Related Federal Aviation Regulations (FAR).* FAR's Part 21, Part 43, and Part 183.

3. *Background.*

a. The Federal Aviation Administration (FAA) has amended Part 183 of the FAR to provide for the establishment of DAR's as a new category of person appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as a representative of the Adminstrator in performing certain certification functions in the areas of maintenance, manufacturing, and engineering. This was deemed necessary due to the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates under Title VI of the FA Act.

b. Since each examination, inspection, and testing function which may be authorized by the Director of Airworthiness could not be envisioned, it was not possible to specify, in amended Part 183, all areas where a DAR's services may be used consistent with the objectives of the amended rule. Therefore, this AC will be used as a vehicle to identify and describe the specific functions which may be authorized. The FAA will republish this AC for notice and comment each time revisions are proposed to add or delete any authorized functions.

4. *Eligibility.* Any qualified person may be authorized to represent the FAA as a DAR for the purpose of performing certain examination, inspection and testing services relative to certification functions, in the areas of maintenance, manufacturing, and engineering as may be authorized by the

Director of Airworthiness, and published in this AC.

5. *Qualification Criteria.* The qualification criteria to be used to determine eligibility for appointment as a DAR is contained in Appendix 1. Essentially, the same basic qualifications that are used by the FAA for appointing FAA engineers and inspectors, Designated Manufacturing Inspection Representatives (DMIR's) and Designated Engineering Representatives (DER's), etc., as appropriate, for the particular function for which DAR authorization is being sought, will be employed in the selection and appointment of DAR's.

6. *Application.*

a. Any qualified person may apply for appointment as a DAR. Applications for appointment must be initiated by a letter to the Aircraft Certification Division (for manufacturing and engineering functions), or to the Flight Standards Division (for maintenance functions), located in the geographical area in which the applicant resides or has his/her primary place of business (Addresses of appointing offices are identified in Appendix 2). The application letter must be accompanied by a Statement of Qualifications (for Designated Airworthiness Representative), FAA Form 8110–14 completed in duplicate by the applicant.

b. Applications submitted by individual applicants must be accompanied by three letters attesting to the applicants, integrity and technical qualifications IN PERFORMING SIMILAR FUNCTIONS ON PRODUCTS OF SIMILAR TYPE AND COMPLEXITY TO THOSE FOR WHICH AUTHORIZATION IS BEING SOUGHT. At least one or more of the letters must be from an FAA office, with whom the applicant has had a working relationship. The other letters should be from aviation industry organizations such as a repair station, manufacturer, or air carrier.

c. Applications submitted by an organization must include the names, signatures, titles, and qualifications of those persons who will perform the authorized functions along with a procedure, acceptable to the FAA, which positively ensures that only such appropriately qualified persons will perform the authorized functions.

d. All applicants for DAR appointment will be subjected to a personal interview by the Aircraft Certification Division or Flight Standards Division, as appropriate, prior to appointment.

e. Additional information concerning DAR selection, appointment and qualification criteria may be obtained from any FAA office identified in Appendix 2.

7. *Selection and Appointment.*

a. The appointing office will evaluate the applicant's qualifications, conduct a personal interview, and check personal references as appropriate, prior to appointment.

b. Upon a satisfactory determination, the appointing office will prepare a Certificate of Authority, FAA Form 8430–9. Authorized functions will be stated on the front of this certificate. However, when space limitations preclude the listing of all authorized functions, the Certificate of Authority may reference a letter that identifies the DAR's limits of authority in more detail. The reverse side of the certificate will be endorsed by personnel from the assigned managing office who will personally present the certificate to the DAR. In most cases, it will be necessary to limit the delegated authority of the DAR to specific functions commensurate with the applicant's knowledge and experience. For example:

(1) In the case of individuals, the authorization will be limited to products or similar type and complexity for which the applicant has been determined qualified; or,

(2) In the case of an organization:

(a) Repair stations will be limited to products for which they hold appropriate ratings;

(b) Air carriers will be limited to aircraft covered by their operating certificate;

(c) Manufacturers will be limited (except in the case of components, reference paragraph 14a(9)) to products under the provisions of their particular FAA production approval.

c. The applicant's letter will be acknowledged by the appointing office. This acknowledgement will advise the applicant as to whether or not he/she has been appointed, or the reasons why the delegation of authority has been denied.

d. A Certificate of Designation, FAA Form 8000–5, suitable for framing and display, will be prepared by the appointing FAA Office and presented to the new designee by personnel from the assigned managing office.

8. *Duration of Certificates.* Unless otherwise terminated, appointments will be effective for a period not to exceed one (1) year and may be renewed annually at the discretion of the appointing office. It should be noted that a DAR appointment may be terminated for any reason, INCLUDING A LACK OF SUFFICIENT ACTIVITY TO WARRANT CONTINUANCE OF THE DESIGNATION.

9. *Training.*

a. The FAA will provide training for all DAR's upon appointment and on an ongoing basis, as necessary. This training will normally be accomplished by the FAA managing office. A DAR may, at his/her option, also attend a course to be given at the FAA Academy at Oklahoma City, Oklahoma, when available. Each DAR desiring to take the course will be expected to pay for his/her expenses and transportation.

b. DAR training will be limited to familiarization with FAA administrative procedures. Training in technical areas will not be provided, since the FAA will require that a DAR applicant have the necessary technical expertise and knowledge of the FAR's as prerequisites to appointment.

10. *Monitoring and Supervision.* All DAR's will be subjected to monitoring and supervision as appropriate for the particular authorized functions. This will normally be accomplished by the managing office in accordance with FAA internal directives.

11. *Limits of Authority.* The Certificate of Authority, and supplemental documents, presented to each DAR will identify all authorized functions. These functions will be limited to those for which the DAR has been determined qualified.

12. *Appointing Office.* The Director of Airworthiness has delegated the authority to select and appoint DAR's to: the Managers of Aircraft Certification Divisions regarding authorization to perform engineering or manufacturing functions, and to the Managers of Flight Standards Divisions regarding authorization to perform maintenance functions.

13. *Managing Office.* The managing office is the FAA Field Office assigned responsibility by the appointing office for managing a particular DAR's activity. All DAR authorized functions must be accomplished within the geographical boundaries of the managing office unless otherwise authorized by that office. In those instances where a DAR obtains authorization to perform authorized functions in another geographical area, the managing office will retain the responsibility for monitoring and supervising the DAR's activity.

14. *Authorized Functions.* The Director of Airworthiness hereby determines that the following functions may be delegated to a DAR (following a determination by the Director, or the Director's designee, that the DAR is qualified to perform the particular function).

a. *Manufacturing Functions.* In the area of manufacturing, a DAR may, within limits prescribed by, and under the general supervision of the Administrator, be authorized to perform the following functions in accordance with existing FAA procedures, policies, practices, and pertinent FAR's:

(1) Issue original standard airworthiness certificates for U.S.-registered aircraft;

(2) Issue experimental certificates, for the purpose of showing compliance with regulations, for U.S.-registered aircraft which have undergone changes to the type design and require flight test, prior to the issuance/reissuance of a standard airworthiness certificate;

(3) Issue original restricted airworthiness certificates for U.S.-registered restricted category aircraft, located in the U.S. only;

(4) Issue original experimental certificates for U.S.-registered amateur-built aircraft, located in the U.S. only;

(5) Issue special flight permits for U.S.-registered aircraft for the purposes outlined in FAR 21.197(a)(1) through (5);

(6) Issue original export airworthiness approvals for Class I products (i.e., aircraft, aircraft engines, or propellers), in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(7) Issue original export airworthiness approvals for Class II products (i.e., major components of a Class I product), that are manufactured and located in the United States, in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(8) Conduct conformity inspections and certify that prototype or test articles, parts, or installations, including complete aircraft, to be used for FAA design evaluation purposes, (e.g., type certification or supplemental type certification programs), conform to the design being evaluated; or

(9) Conduct conformity inspections and certify that components manufactured in the U.S. for foreign product manufacturers conform to the design, test, and quality requirements notified to the FAA by the civil

air authority of the country in which the product manufacturer is located.

b. *Maintenance Functions.* In the area of maintenance, a DAR may, within limits prescribed by, and under the general supervision of the Administrator, be authorized to perform the following functions in accordance with existing FAA procedures, policies, practices, and pertinent FAR's:

(1) Issue recurrent standard airworthiness certificates for U.S.-registered aircraft;

(2) Issue recurrent restricted airworthiness certificates for U.S.-registered restricted category aircraft, located in the U.S. only;

(3) Issue recurrent experimental certificates for U.S.-registered amateur-built aircraft, located in the U.S. only;

(4) Issue special flight permits for U.S.-registered aircraft for the purposes outlined in FAR 21.197(a)(1), and (2);

(5) Issue recurrent export airworthiness approvals for Class I products (i.e., aircraft, aircraft engines, or propellers), in accordance with the provisions of Part 21, Subpart L, of the FAR's;

(6) Issue recurrent export airworthiness approvals for Class II products (i.e., major components of a Class I product), that are manufactured and located in the United States, in accordance with the provisions of Part 21, Subpart L, of the FAR's; or,

(7) Issue airworthiness approval tags for U.S.-manufactured spare parts for aircraft, aircraft engines, propellers, materials, parts, or appliances upon a determination that such products have remained in, or have been returned to, their FAA approved design configuration, and are in a condition for safe operation.

c. *Engineering Functions.* [Reserved. No present need has been established to authorize delegations in the area of engineering beyond those presently authorized under the Designated Engineering Representative (DER) program.]

M. C. Beard,

*Director of Airworthiness.*

**Appendix 1. Qualification Criteria**

1. *General Qualifications.* In view of the diverse certification functions (i.e., areas of maintenance, manufacturing, and engineering) which may be delegated under FAR 183.33, the FAA must ensure that DAR applicants are appropriately qualified for each requested function. Accordingly, to qualify for an appointment as a DAR, all applicants must meet the general qualifications listed below in addition to having the specialized experience specified in paragraphs 2 and 3, as appropriate, for the particular function for which authorization is being sought:

a. Current and through working knowledge of the FAR's and related material;

b. Current technical knowledge and experience commensurate with that required for the particular function;

c. Unquestionable integrity, cooperative attitude, and the ability to exercise sound judgment;

d. The ability to maintain the highest degree of objectivity while performing authorized functions on behalf of the FAA, consistent with FAA regulations, statutes, and safety goals, notwithstanding any influence to the contrary; and

e. At least two (2) years of satisfactory experience in working with the FAA in connection with the type of work to be covered in the designation.

2. *Specialized Experience Required for Manufacturing Functions.* In the area of manufacturing, FAA Manufacturing Inspectors are responsible for making original (i.e., the first issuance of an airworthiness certificate/approval or export airworthiness approval) determinations that an aircraft or related product conforms to its FAA approved type design configuration and is in a condition for safe operation; or, as appropriate, the original determination that an aircraft or related product meets pertinent FAR requirements (e.g. amateur-built aircraft). Accordingly, in the area of manufacturing, in addition to the general qualifications specified in paragraph 1, a DAR applicant must have the following specialized experience for each particular function for which authorization is being sought:

a. *Issuance of Original Airworthiness Certificates on U.S.-Registered Aircraft.* (Reference Advisory Circular 183-33, paragraph 14a(1) through (5)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Five years of experinece as an FAA Manufacturing Inspector or Designated Manufacturing Inspection Representative (DMIR) involved in the actual issuance of original airworthiness certificates on AIRCRAFT OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) In the case of an organization, as the holder of an FAA Production Certificate (PC), or Approved Production Inspection System (APIS) having a person(s) in its employ with five years of experience similar to that specified in paragraph 2a(1).

b. *Issuance of Original Export Airworthiness Approvals for Class I Products (i.e., Aircraft, Aircraft Engines, or Propellers).* (Reference Advisory Circular 183-33, paragraph 14a(6)). To qualify for authorization to perform this particular function, an DAR applicant must have the following experience.

(1) Five years of experience as an FAA Manufacturing Inspector or DMIR involved in the actual issuance of original export airworthiness approvals on Class I Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) In the case of an organization, as the holder of an FAA PC, or APIS having a person(s) in its employ with five years of experience similar to that specified in paragraph 2b(1).

c. *Issuance of Original Export Airworthiness Approvals for Class II Products (i.e., Major Components of a Class I Product), that are Manufactured and Located in the United States.* (Reference Advisory Circular 183-33, paragraph 14a(7)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:

(1) Three years of experience as an FAA Manufacturing Inspector or DMIR involved in the actual issuance of original export airworthiness approvals on Class II Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or

(2) Show evidence of three years of experience with quality control methods and techniques which demostrates the applicant's ability to determine that Class II Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for original export airworthiness approval meet FAR 21, Subpart L, and any other applicable FAR's; and meet the special/additional requirements of the importing country. This experience should include:

(a) First article, in process, and final assembly inspection;

(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;

(c) Destructive and nondestructive inspection;

(d) Manufacturing processes;

(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);

(f) Developing/implementing quality control systems/procedures;

(g) Testing procedures; and

(h) Use of FAA approved design data.

(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS Technical Standard Order Authorization (TSOA), or FAA-Parts Manufacturer Approval (FAA-PMA)) having a person(s) in its employ with three years experience similar to that specified in paragraph 2c(1) or (2).

d. *Conduct Conformity Inspections and Certify Conformity of Prototype or Test Articles, Parts, or Installations, Including Completed Aircraft.* (Reference Advisory Circular 183-33, paragraph 14a(8)). To qualify for authorization to perform this particular function, DAR applicant must have the following experience:

(1) Five years of experience as an FAA Manufacturing Inspector or DMIR involved in making actual determinations that prototype or test articles, parts, or installations, including completed aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) were in conformity to the design being evaluated by the FAA; or

(2) Show evidence of five years experience with quality control methods and techniques which demonstrates the applicant's ability to determine that prototype or test articles, parts, or installations, including completed aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought), to be used for FAA design evaluation, conform to the design being evaluated. This experience should include:

(a) First article, in process, and final assembly inspection;

(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;

(c) Destructive and nondestructive inspection;

(d) Manufacturing processes;

(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);
(f) Developing/implementing quality control systems/procedures;
(g) Testing procedures; and
(h) Use of FAA approved design data.
(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS, TSOA, or FAA–PMA) having a person(s) in its employ with five years experience similar to that specified in paragraph 2d(1) or (2).

e. *Conduct Conformity Inspections and Certify Conformity of Components Manufactured in the United States for Foreign Product Manufacturers.* (Reference Advisory Circular 183–33, paragraph 14a(9)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:
(1) Three years of experience as an FAA Manufacturing Inspector involved in making actual determinations that components (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) manufactured in the U.S. for foreign product manufacturers were in confirmity with the design, test, and quality requirements notified to the FAA by the civil air authority of the country in which the product manufacturer is located; or
(2) Show evidence of three years experience with quality control methods and techniques on components (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) which demonstrates the applicant's ability to determine conformance to the pertinent design, test, and quality requirements. This experience should include:
(a) First article, in process, and final assembly inspection;
(b) Quality assurance provisions of special processes, e.g., heat treating, brazing, welding, carburizing, plating, etc.;
(c) Destructive and nondestructive inspection;
(d) Manufacturing processes;
(e) Airworthiness assurance (Reference Order 8120.2A, paragraph 183);
(f) Developing/implementing quality control systems/procedures;
(g) Testing procedures; and
(h) Use of FAA approved design data.
(3) In the case of an organization, as the holder of an FAA production approval (i.e., PC, APIS, TSOA, or FAA–PMA) having a person(s) in its employ with three years experience similar to that specified in paragraph 2e(1) or (2).

3. *Specialized Experience Required for Maintenance Functions.* In the area of maintenance, FAA Airworthness Inspectors are responsible for making recurrent (i.e., the issuance, subsequent to the original, of an airworthiness certificate/approval or export airworthiness approval) determinations that an aircraft or related product has remained in or has been returned to its FAA approved type design configuration and is in a condition for safe operation; or, as appropriate, the recurrent determination that an aircraft or related product continues to meet pertinent FAR requirements (e.g. amateur-built aircraft). Accordingly, in the area of maintenance, in addition to the general qualifications specified in paragraph 1, a DAR applicant must have the following specialized experience for each particular function for which authorization is being sought:

a. *Issuance or Recurrent Airworthiness Certificates on U.S.-Registered Aircraft.* (Reference Advisory Circular 183–33, paragraph 14b(1) through (4)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:
(1) five years of experience as:
(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent airworthiness certificates on AIRCRAFT OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or
(b) A person having responsibility for managing airworthiness certification programs leading to the issuance of airworthiness certificates and/or the release of aircraft to service (e.g. Chief Inspector or Director of Maintenance at an FAA approved repair station, or at the facility of the holder of an air carrier or commercial operators certificate). This person must demonstrate the ability to determine that aircraft (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent certification have remained in or have been returned to their FAA approved design configuration; or, as appropriate, the recurrent determination that an aircraft meets pertinent FAR requirements; or
(c) The experience as outlined in paragraph 2a(1).
(2) In the case of an organization:
(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years experience similar to that specified in paragraph 3a(1) (a) through (c); or
(b) Any air carrier operating certificate holder with an FAA approved Continuous Airworthiness Maintenance Program (CAMP), having a person(s) in its employ with five years experience similar to that specified in paragraph 3a(1) (a) through (c); or
(c) A manufacturer as defined in paragraph 2a(2).

b. *Issuance of Recurrent Export Airworthiness Approvals for Class I Products (i.e., Aircraft, Aircraft Engines, or Propellers).* (Reference Advisory Circular 183–33, paragraph 14b(5)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:
(1) Five years of experience as:
(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent export airworthiness approvals for Class I Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or
(b) A person having responsibility for managing export airworthiness approval programs leading to the issuance of export airworthiness approvals for Class I Products (e.g., Chief Inspector or Director of Maintenance at an FAA approved repair station, or at the facility of the holder of an air carrier or commercial operators certificate). This person must demonstrate the ability to determine that Class I Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent export airworthiness approval meet FAR 21, Subpart L, and any other applicable FAR's; and meet the special/additional requirements of the importing country; or
(c) The experience outlined in paragaraph 2b(1).
(2) In the case of an organization:
(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years experience similar to that specified in paragraph 3b(1) (a) through (c); or
(b) Any air carrier operating certificate holder with an FAA approved CAMP, having a person(s) in its employ with five years experience similar to that specified in paragraph 3b(1) (a) through (c); or
(c) A manufacturer as defined in paragraph 2b(2).

c. *Issuance of Recurrent Export Airworthiness Approvals for Class II Products (i.e., Major Components of a Class I Product), that are Manufactured and Located in the United States.* (Reference Advisory Circular 183–33, paragraph 14b(6)). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:
(1) Three years of experience as:
(a) An FAA Airworthiness Inspector involved in the actual issuance of recurrent export airworthiness approvals on Class II Products OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought; or
(b) The holder of an IA, Mechanic Certificate with airframe and powerplant ratings, or a repairman's certificate (e.g. avionics, instruments, etc.) who can demonstrate the ability to determine that Class II Products (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for recurrent export airworthiness approval meet FAR 21, Subpart L, and other applicable FAR's; and meet the special/additional requirements of the importing country; or
(c) The experience as outlined in paragraph 2c(1) or (2).
(2) In the case of an organization:
(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with three years of experience similar to that specified in paragraph 3c(1) (a) through (c); or
(b) Any air carrier operating certificate holder with an FAA approved CAMP, having a person(s) in its employ with three years of experience similar to that specified in paragraph 3c(1) (a) through (c); or
(c) A manufacturer as defined in paragraph 2c(3).

d. *Issuance of Airworthiness Approval Tags for U.S.-Manufactured Spare Parts for Aircraft, Aircraft Engines, Propellers, or Appliances.* (Reference Advisory Circular 183–33, paragraph 14b(7). To qualify for authorization to perform this particular function, a DAR applicant must have the following experience:
(1) Five years of experience as:

(a) An FAA Airworthiness Inspector involved in the actual issuance of airworthiness approval tags for spare parts for aircraft, aircraft engines, propellers, or appliances (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought); or

(b) The holder of an IA, Mechanic Certificate with airframe and powerplant ratings, or a repairman's certificate (e.g. avionics, instruments, etc.) who can demonstrate the ability to determine that U.S.-manufactured spare parts for aircraft, including aircraft engines, propellers, materials, parts, or appliances, (OF SIMILAR TYPE AND COMPLEXITY to those for which authorization is being sought) submitted for airworthiness approval tags have remained in or have been returned to their FAA approved design configuration; are in a condition for safe operation; and meet any other applicable FAR's; or

(c) The experience as outlined in paragraph 2b(1); or

(2) In the case of an organization:

(a) As the holder of a repair station certificate, under FAR 145, with appropriate ratings, having a person(s) in its employ with five years of experience as specified in paragraph 3d(1) (a) through (c); or

(b) Any air carrier operating certificate holder with an PAA approved CAMP, having a person(s) in its employ with five years of experience similar to that specified in paragraph 3d(1) (a) through (c); or

(c) A manufacturer as defined in paragraph 2b(2).

4. *Specialized Experience Required for Engineering Functions.* No present need has been established to authorize delegations in the area of engineering beyond those presently authorized under the Designated Engineering Representative (DER) program. Therefore, specialized experience requirements for this discipline will not be developed until such need has been established.

**Appendix 2. Selecting and Appointing Offices**

The FAA offices responsible for selecting and appointing DAR's are as listed below. Information concerning DAR selection, appointment and qualification criteria may be obtained from the offices listed below or from any FAA Aircraft Certification Office (ACO), Manufacturing Inspection District Office (MIDO), Manufacturing Inspection Satellite Office (MISO), Flight Standards District Offices (FSDO), General Aviation District Office (GADO) or Air Carrier District Office (ACDO).

a. *Manufacturing and Engineering Functions.* Applications for DAR appointment in the areas of manufacturing and engineering must be submitted to the Aircraft Certification Division listed below that is located in the geographical area in which the applicant resides or has his/her primary place of business.

(1) Aircraft Certification Division, ANE-100, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 273-7328.

(2) Aircraft Certification Division, ACE-100, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-6937.

(3) Aircraft Certification Division, ASW-100, 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101, (817) 624-4512.

(4) Aircraft Certification Division, ANM-100, 17900 Pacific Highway South, Seattle, Washington 98168, (206) 764-7047.

b. *Maintenance Functions.* Applications for DAR appointment in the area of maintenance must be submitted to the Flights Standards Division listed below that is located in the geographical area in which the applicant resides or has his/her primary place of business.

(1) Flight Standards Division, AAL-200, Anchorage Federal Office Building and Courthouse, 701 C Street, Box 14, Anchorage, Alaska 99513, (907) 271-5514.

(2) Flight Standards Division, ACE-200, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374-5003.

(3) Flight Standards Division, AEA-200, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, (213) 917-1124.

(4) Flight Standards Staff, AEU-200, 15 Rue de la Loi, 1040 Brussels, Belgium, 513.38.30 Extension 2225, Autovo 793-2720.

(5) Flight Standards Division, AGL-200, 2300 East Devon Avenue, Des Plains, Illinois 60018, (312) 694-7252.

(6) Flight Standards Division, ANE-200, 12 New England Executive Park, P.O. Box 510, Burlington, Massachusetts 01803, (617) 273-7341.

(7) Flight Standards Division, ANM-200, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, (206) 264-7040.

(8) Flight Standards Division, ASO-200, 3400 Norman Berry Drive, East Point, Georgia 30344, P.O. Box 20636, Atlanta, Georgia 30320, (404) 763-7401.

(9) Flight Standards Division, AWP-200, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, (213) 536-6251.

(10) Flight Standards Division, ASW-200, 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101, (817) 624-4911, Extension 500.

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Part III

# Department of Transportation

## Research and Special Programs Administration

## Specifications for Railroad Tank Cars Used To Transport Hazardous Materials; Notice of Proposed Rulemaking

**DEPARTMENT OF TRANSPORTATION**
**Research and Special Programs Administration**

**49 CFR Part 173 and 179**

**[Docket No. HM-175; Notice No. 83-1]**

## Specifications for Railroad Tank Cars Used To Transport Hazardous Materials

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes changes in the construction and maintenance standards for railroad tank cars used to transport hazardous materials. References to various specification tank cars are to DOT specifications. The proposed changes are as follows:

(1) After December 31, 1986, specification 105 tank cars built before September 1, 1981, that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas, anhydrous ammonia or ethylene oxide would have to be equipped with lower half tank head protection (such as a head shield);

(2) After December 31, 1986, specification 105 tank cars built before September 1, 1981 that have a capacity exceeding 18,500 U.S. gallons and are carrying a flammable gas or ethylene oxide would have to be equipped with: (a) High temperature thermal insulation; and (b) safety relief valves sized according to the requirements for specification 112 and 114 tank cars; and

(3) After December 31, 1986, specification 111 tank cars that have a capacity exceeding 18,500 U.S. gallons and are carrying flammable gas or ethylene oxide would have to be equipped with: (a) Lower half tank head protection; (b) high temperature thermal insulation; and (c) safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

In brief, the proposed rule would require that specifically identified hazardous materials being transported in existing large capacity specification 105 and 111 tank cars have the same added tank head and thermal safety systems that are now required on newly built specification 105 tank cars (HM-174) and on all specification 112 and 114 tank cars (HM-144) when carrying those same commodities.

**DATE:** Comments must be received on or before June 7, 1983.

**ADDRESS:** Comments should be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket number and notice number and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except public holidays.

**FOR FURTHER INFORMATION CONTACT:** Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, (202) 426-0897.

**SUPPLEMENTARY INFORMATION:** At the time DOT commenced its review of specifications for pressure tank cars in the early 1970's, there had been a number of serious railroad accidents involving rail transportation of flammable compressed gases, toxic compressed gases and other hazardous materials. Most of these accidents involved uninsulated pressure tank cars of large capacity (over 18,500 U.S. gallons) built to specification 112 and 114.

Since the specification 112 and 114 tank car shipments of hazardous material were determined to present a more serious threat to public safety, MTB and the Federal Railroad Administration (FRA) assigned first priority to improving the construction and maintenance standards applicable to those cars. It was further decided that after these specification 112 and 114 tank cars had been structurally upgraded, the MTB and FRA would then consider a revision of the standards applicable to the specification 105 tank cars.

Accordingly, on September 15, 1977, MTB published a final rule in Docket HM-144 (42 FR 46306). In summary, the rule requires that:

1. Existing and newly built specification 112 and 114 tank cars used to transport flammable gases such as propane, vinyl chloride and butane have both thermal protection (large capacity safety relief valves and high temperature thermal insulation) and tank head protection (such as a head shield);

2. Existing and newly built specification 112 and 114 tank cars used to transport anhydrous ammonia have tank head protection; and

3. All specification 112 and 114 tank cars be equipped with special couplers designed to resist coupler vertical disengagements (self couplers).

After the upgrading of specification 112 and 114 tank cars was substantially completed, MTB initiated rulemaking for specification 105 tank cars. On January 26, 1981, MTB published a final rule in Docket HM-174 (46 FR 8005) affecting new construction of specification 105 tank cars. That final rule also includes a shelf coupler requirement applicable to all specification tank cars. The rule requires that:

(1) Specification 105 tank cars built before March 1, 1981, be retrofitted over a one-year period ending on February 28, 1982, with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(2) All other specification tank cars built before March 1, 1981, be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars over a four-year period ending on February 28, 1985;

(3) After February 28, 1981, newly built specification 105 tank cars be equipped with a coupler vertical restraint system equivalent to that required on specification 112 and 114 tank cars;

(4) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases, anhydrous ammonia and ethylene oxide be equipped with a tank head puncture resistance system equivalent to that required on certain specification 112 and 114 tank cars (S, T, and J cars);

(5) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be equipped with high temperature thermal insulation equivalent to that required on certain specification 112 and 114 tank cars (T and J cars); and

(6) After August 31, 1981, newly built specification 105 tank cars transporting flammable gases and ethylene oxide be equipped with safety relief valves sized according to the requirements for specification 112 and 114 tank cars.

On July 21, 1980, the same day the notice of proposed rulemaking in Docket HM-174 was issued, MTB also issued an advance notice of proposed rulemaking (ANPRM) in Docket HM-175 (45 FR 48668). That notice sought additional information to allow an evaluation of the need, means, and cost to extend the specified puncture and thermal protection levels of specification 112 and 114 tank cars to:

1. Existing specification 105 tank cars used to transport the same hazardous materials permitted in specification 112 and 114 tank cars;

2. Existing specification 105 tank cars used to transport other hazardous materials such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids; and

3. All other new and existing specification tank cars used to transport the same hazardous materials permitted

in specification 105 tank cars, *e.g.*, specification 111 tank cars.

Comments received in response to the ANPRM and the substantial body of information developed in Dockets HM–144 and HM–174 have been considered in developing the rule proposed in this notice. In all, thirty-eight comments to the ANPRM were submitted to MTB. The depth of coverage in response to the eighteen questions posed by MTB ranged from one or two-page documents limited to a single concern, general observations, or a blanket endorsement of some other commenter's submittal, to documents of more than forty pages covering each of the major issue areas.

**Question #1: Accident Data**

In the ANPRM, MTB requested details of accidents involving a broad range of hazardous materials according to specification tank car and designated subgroup tank car design characteristics. The tank car subgroup designs were specified in the ANPRM.

Ten responses contained some accident data. Most of the comments were directed at individual commodities or limited movements. One commenter supplied detailed accident data on all major hazardous material rail accidents since 1958. Other commenters supplied accident data on particular hazardous materials or tank car fleet basis. Although the great majority of tank cars included in these data carried flammable gases or anhydrous ammonia, other hazardous materials also were mentioned. These other hazardous materials included ethylene oxide, chlorine, motor fuel anti-knock compound, nitrogen fertilizer solution, refrigerants/dispersants/fluorocarbons, carbon dioxide, sulfur dioxide, ethyl ether, metallic sodium, anhydrous hydrofluoric acid, benzene, acrolein, hydrogen sulfide, vinyl acetate, flammable liquids, propylene oxide, and anhydrous hydrochloric acid. The comments received in this area did not contradict or significantly add to MTB's own data base.

**Question #2: Existing Protection Levels**

The MTB requested comments on how the levels of head and thermal protection should be ascertained for the various subgroups of existing specification 105 tank cars. Specifically, MTB asked if a point value system reflecting each type and thickness of material should be established.

Most commenters either directly stated or inferred that the levels of needed protection cannot be established for other hazardous materials in the same way as for flammable gases. They contend that safety requirements should be based on the characteristics of the hazardous material being transported and the risks inherent in its transportation by rail. Some commenters noted that the Railway Progress Institute (RPI), the Association of American Railroads (AAR), and FRA were conducting scale model testing and that specific methodologies should await final test results. Several commenters stated that full scale testing was needed to determine the degree of protection provided to such hazardous materials by various specification tank car designs. One commenter recommended that objective engineering formulas from FRA test data be developed to relate the physical and thermal characteristics of the head/tank material, insulation material, jacket material, and tank design.

Overall, MTB did not receive any analyses or approaches to evaluate the levels of puncture and termal protection that the various specification 105 tank cars now possess. The commenters tended to avoid this question on the grounds that it was not feasible, without additional testing, to determine the levels of protection now provided by the various specification 105 tank car designs.

**Question #3: Identification and Marking**

The MTB requested information on the processes that might be employed to identify and mark each car in the fleet according to the level of head and thermal protection if possesses.

Most commenters answered this question in the same way as for Question #16 on stenciling. They recommend that the current stenciling methods and the alphanumeric system to identify particular car/commodity/protection for specification 112/114 and new specification 105 tank cars be extended to all specification 105 tank cars.

**Question #4: Commodity Specific Protection**

The MTB solicited comments on whether a different level of thermal and head protection is needed for hazardous materials other than those carried in specification 112 and 114 tank cars. For those hazardous materials which may need different levels of protection, MTB also requested information on what the levels should be and the reasons for the protection level selected. In addition, MTB asked for suggestions on how cars carrying these hazardous materials should be identified and marked.

The commenters who responded to this question believed that hazardous materials should be evaluated individually, with many requiring different or lesser levels of protection than required for the hazardous materials addressed in HM–144. Several commenters offered specific examples of hazardous materials that warrant special protection consideration. Several commenters felt that the existing requirements are already in proportion to protection needs; *e.g.*, the authorized tank car is often required to be constructed to a higher strength specification than the vapor pressure of the hazardous material at ambient temperature warrants.

Commenters generally restricted their opinions to products and car types with which they were directly associated. A variety of reasons were offered in support of various positions.

Two commenters noted that there has never been an incident involving loss of product from a tank car transporting metallic sodium and the metallic sodium is shipped at low vapor pressure. Therefore, they conclude that there is no need for head and thermal protection of tank cars used to transport metallic sodium.

One commenter felt that there might be a justification for a heavier head jacket for cars carrying pyrophorics. The same commenter claimed that there was no justification for retrofit of motor fuel anti-knock compound cars because the disaster potential was much less than for some of the other hazardous materials transported in specification 105 tank cars.

Several commenters identified flammable gases, ethylene oxide, chlorine, and certain poisons as commodities that may be candidates for additional protection. One commenter believed that flammable liquids and combustible liquids have characteristics that do not require the same protection level as do flammable or poisonous gases.

Another commenter cited ethylene oxide, chlorine, and acrolein as hazardous materials that may need additional protection. This commenter believed that the HM–144 thermal protection requirement would not be appropriate for chlorine and acrolein. It was noted that the HM–144 requirement is designed to prevent tank steel from exceeding 800°F for a specific time during exposure to torch or pool fires, whereas chlorine reacts with steel at about 500°F and acrolein polymerizes at about 400°F. Another commenter noted the steel-chlorine reaction problems and suggested that future testing should be directed at producing high temperature insulating systems to improve the thermal resistant performance of chlorine cars. This commenter noted

that, for chlorine cars, there have been more shell punctures than head punctures. Therefore, the commenter concluded that if a thicker tank head or jacket is necessary, then consideration should be given to requiring thicker material for the entire tank. One commenter identified chlorine, vinyl chloride, and isobutylene as the most viable hazardous materials for tank car retrofitting. Another commenter pointed to ethylene oxide cars as the cars most needing retrofit.

No consistent or rigorous criteria for ranking hazardous material in order of the need for additional protection levels evolved from the comments submitted.

**Question #5: Accuracy of MTB Estimates**

The MTB included in the ANPRM a table of car groupings and estimated protection levels to stimulate comments. It is entitled, "Summary of Estimated Protection Provided by Broad 105 Car Classification Sub-Groupings." Comments on the applicability and accuracy of the table were solicited.

No in-depth analyses or detailed comments pertaining to the table were supplied by the commenters. Several commenters felt that the table represented a reasonable breakdown of the specification 105 tank car fleet. Some suggested that the breakdown of the specification 105 tank car fleet in the table be compared with the results of a study being done by Dynatrend for FRA and/or with the results of Phase 17 of the RPI/AAR Tank Car Project. A more detailed breakdown of the specification 105 car fleet (*e.g.*, hazardous material, by car size, and by car accident history) was recommended by others. Most commenters, however, only addressed the number of cars in each subgroup, not the estimated protection levels of the subgroups.

The commenters generally felt that the two columns offered by the MTB on the estimated status of the tank head and thermal protection of the subgroups were subjective. Many stated that additional testing was needed to quantify the existing levels of head and thermal protection by car design. One commenter felt that the table was misleading for anhydrous ammonia since the table indicates that specification 105 anhydrous ammonia cars have significantly less thermal protection than HM-144 requirements, even though high temperature thermal protection is not required in HM-144 for specification 112 and 114 tank cars used to carry anhydrous ammonia.

**Question #6: Fleet Characteristics**

The MTB asked that tank car owners and users provide breakdowns of specification 105 tank cars owned or used according to appropriate sub-groupings and characteristics in the table published in the ANPRM.

The limited data submitted did not permit MTB to compile a more accurate or comprehensive characterization of the specification 105 tank car fleet.

**Question #7: Retirement, Displacement, Retrofit Considerations**

The MTB requested that tank car owners estimate how many specification 105 tank cars would be retired, displaced, or retrofitted if HM-144 performance levels were mandated for the entire specification 105 tank car fleet.

Generally, it appears that the responses to this question were made from varying assumptions as to what the final rule requirements would be. Hence, it is impossible to draw any firm conclusions on the number of cars that would be displaced, retired, or retrofitted if a retrofit requirement for the entire 105 tank car fleet was established.

**Question #8: Reasons and Consequences of Retirement or Displacement of Tank Cars**

Comments were requested about the reasons for and economic consequences of the retirement of certain cars in lieu of retrofitting. Comments were also requested about the reasons for and the economic consequences of changing car usage rather than retrofitting. The MTB further requested that commenters provide specific information on the age and size of cars which would be considered as strong candidates for retirement or for a change in usage.

Most commenters answered this question in a way which suggested that actual "real world" decisions would have to await a clearer expression of regulatory intent. Various rather general individual opinions were advanced. One commenter stated that cars 28 years or older would be retired because the retrofit cost could not be fuly depreciated over the remaining life of those cars. Another commenter stated that cars listed in the ANPRM Table as subgroup C (LPG) would either be scrapped, or converted to a non-pressure class if a demand for other use could be found for those cars. Another commenter identified small tank cars (approximately 11,000 gallon size) as being strong candidates for a change in usage or retirement.

**Question #9: New Car Procurements**

Comments were requested on the effect that tank car retirement or usage changes would have on new car procurements.

Most comments were not detailed or specific. It was difficult to determine a consistent or overall direction of the replies. Some commenters stated that all of the retired/dispalced cars would be replaced, while one said that none of the retired/displaced cars would be replaced.

The MTB did not obtain new information from the comments which significantly aided in estimating the impact that the regulatory changes would have on new car procurements.

**Question #10: Technical Feasibility of Retrofitting**

Assessments of the technical feasibility of retrofitting specification 105 cars were solicited by MTB.

Most of the commenters who responded to this question did not advance technical doubts as to the feasibility of accomplishing the potential retrofit. There were strong opinions that it was not economically practical (because of high costs) to retrofit tank cars by replacing existing valves with larger safety valves. There were also general objections to a retrofit based on the belief that an unretrofitted specification 105 tank car is safer than the unretrofitted specification 112 and 114 tank cars built prior to HM-144.

Even though no significant retrofit obstacles were identified, several commenters observed that because of the growth in diameter of tanks, insulation thickness was restricted by clearance dimensions along railroad rights-of-way. Other commenters considered retrofitting as feasible from a purely technical aspect, but thought that additional testing would be necessary to resolve certain design questions. Several commenters expressed uncertainties concerning the length of time that external coatings applied to specification 105 car jackets could be expected to meet high temperature thermal protection requirements without losing mechanical integrity in severe raiload operational environments.

**Question #11: Retrofit Cost Estimates**

The MTB requested estimates of the prospective costs of retrofitting given types of specification 105 tank cars. The MTB asked that commenters specify the subgroup and relevant car characteristics (*e.g.*, capacity) upon which their estimates were based; that the specific cost elements be isolated; and that the type of protection system

be identified. In addition, cost estimates for out-of-service time and other cost factors were requested.

The nature and the amount of the estimates supplied by the commenters varied over a wide range. In some cases, it was not clear what cost elements were embraced by the totals.

**Question #12: Retrofit Priorities and Timeframes**

The ANPRM solicited comments concerning what retrofit priorities and timeframes might be reasonable, and the basis for the priorities and timeframes advocated.

Several of the commenters, while registering doubts about the justification of a retrofit, stated that any retrofit priority should be based on the characteristics of the hazardous materials, with the timeframe related to the need for retrofit, the number of cars affected, and the availability of shop space. One commenter recommended that the retrofit priorities should be based upon the Environmental Protection Agency's Hazardous Substances Categories, and that the number of cars known to be in each of these priority categories would then provide a basis for arriving at reasonable retrofit timeframes. Several commenters believed that retrofit priorities should be based on the characteristics of the hazardous material and car size while one commenter believed that retrofit priorities should be based upon a reconciliation of the level of hazard inherent in the hazardous material and the degree of protection already existing in the cars used. Several commenters suggested priority be given to the HM-144 commodities (flammable gases and anhydrous ammonia).

**Question #13: Safety Relief Valves**

The MTB asked for comments on the adequacy of current safety relief valves and the extent to which relief valves or discs can be modified on existing cars.

The large majority of commenters felt that a requirement should not be imposed that would mandate replacement of existing valves with larger ones. Although one commenter believed that larger safety valves are of benefit and recommended continued use wherever feasible, many other commenters expressed the opinion that the relief valves currently used on specification 105 tank cars are adequate. The only commenter who discussed directly the feasibility of modifying relief valves or discs stated that existing relief valves on specification 105 tank cars cannot be modified to obtain a larger capacity.

The primary concern of the commenters is the large cost that would be involved if installation of a large capacity safety valve requires cutting a larger hole in the tank. However, the commenters did not indicate the number of cars which would require the cutting of a larger hole.

**Question #14: Peculiar Problems or Impacts**

The MTB requested information on problems or impacts unique to a commenter's situation, including whether the owner or shipper was a small business.

The general flavor of the comments was that those small businesses owning or operating only a few cars would tend to suffer the most if a comprehensive retrofit were to be required. As in answers to several other questions, commenters seemed to be concerned that an arbitrary requirement might be imposed which would be expensive to comply with and provide little real direct benefits in return.

**Question #15: Proof of Performance Levels**

The MTB requested opinions on the methods or processes that should be utilized to determine the degree to which given tank head or thermal protection systems meet or exceed a specified performance level.

Several commenters favored complete full-scale testing to prove the effectiveness of proposals in new areas. One commenter suggested that both full-scale puncture and drop hammer tests be performed for systems not previously tested. Several commenters endorsed the FRA thermal test program which was then underway as a step in the right direction.

**Question #16: Stenciling**

The MTB asked for comments on the requirements, procedures and methods that might be utilized in stenciling or labeling the tank cars.

Most commenters felt that current methods for tank car stenciling could be easily augmented to advise the shippers of the degree of protection provided by specific car types.

**Question #17: Reporting Needs**

The MTB asked for comments on the reporting requirements for monitoring the progress of any mandated retrofit program.

Most commenters stated that if a reporting requirement is considered necessary then a system similar to that used for HM-144 should be adopted. Several commenters recommended a quarterly reporting schedule, while others recommended a semi-annual report schedule. One commenter suggested that industry should submit to DOT a timetable to monitor progress on a quarterly basis and that DOT should require reports by exception, *i.e.*, from only those who are not meeting the submitted schedule.

**Question #18: Operational Substitutes**

The MTB asked for comments on operational changes that might be instituted in lieu of retrofitting and still provide acceptable protection levels.

Several commenters suggested that DOT should await recommendations of the Systems Safety Analysis Group of the Inter-industry Task Group. Other commenters suggested that a rule, similar to FRA Emergency Order No. 5, should be adopted. Several commenters believed that operational changes are a more costly solution, especially since they are recurring costs, and should not be required.

**Discussion**

The MTB and FRA have examined the comments received in respect to actual accident trends, previous regulatory actions, testing results, technical evaluations, traffic statistics and other pertinent information in the possession of MTB and FRA. As a part of this examination, several options were developed and evaluated. A comprehensive benefit-cost analysis was employed to assess the relative merits of each major option.

The provisions of this NPRM are discussed in relationship to each of the three areas of consideration listed in the ANPRM.

The first area addressed in the ANPRM was the issue of extending the specified puncture and thermal protection levels of specification 112 and 114 tank cars (HM-144) to existing specification 105 tank cars that transport the same commodities as specification 112 and 114 tank cars.

In assessing the advisability of regulatory action in this area, the MTB and FRA note that:

(a) Any specification 112 tank car, 114 tank car, or 105 tank car built after August 31, 1981 must have a specified puncture protection level, thermal protection level and safety valve sizing as appropriate, when used to transport flammable gases and the toxic non-flammable gas, anhydrous ammonia.

(b) The safety improvement effectiveness of these protection requirements has been established through operating experience;

(c) Almost all of the flammable gas and anhydrous ammonia rail movement

volume in specification 105 tank cars is carried in newer cars having capacities in excess of 18,500 gallons;

(d) Other than having jacketed ambient temperature insulation, the basic design of the large capacity specification 105 tank cars is essentially similar to the specification 112 and 114 tank cars prior to being retrofitted in accordance with HM–144;

(e) Requiring retrofit of the safety valves on existing large capacity (over 18,500 U.S. gallons) specification 105 tank cars will not require cutting a larger hole in the tank since these cars have a manway cover with an 18 inch diameter; and

(f) The benefit-cost ratio for the retrofit of these large specification 105 tank cars (numbering about 3,000) is positive.

The FRA has determined that the retrofit of specification 105 tank cars would be cost beneficial, provided that the retrofit requirement is limited to those cars having capacities exceeding 18,500 U.S. gallons and used to transport those hazardous materials that historically have an unfavorable accident history and disaster potential (*i.e.*, LPG, ethylene oxide, and anhydrous ammonia). The retrofit proposed in this NPRM requires protection systems that are identical or substantially similar to those that have been extremely successful when applied to other tank cars transporting these commodities. The selection of large capacity specification 105 tank cars for retrofitting is consistent with the previous tank car retrofit rulemaking (HM–144) since the specification 112 and 114 tank cars previously required to be retrofitted were large capacity cars.

A large capacity safety valve is proposed because the combination of thermal insulation and larger safety valve provides the best level of safety. The large safety valve minimizes the product left in the tank at the point of tank failure and provides additional benefits in the case where the car is overturned and must vent liquid as well as vapor.

The cost involved in requiring a large capacity safety valve, as was required in HM–144 and HM–174, is not excessive since MTB and FRA are proposing a rule limited to tank cars with a volume over 18,500 gallons. The MTB and FRA believe that most, if not all, of these cars already have a manway of at least 18 inches in diameter, *i.e.*, large enough to be equipped with the large capacity valve. Thus, no changes in the tank structure, would be necessary. At most, a new manway cover plate will be necessary.

For those tank cars with a manway cover having a major dimension or diameter of less than 18 inches, MTB and FRA have proposed an alternative system that would allow the use of additional thermal protection in conjunction with existing safety valves. With this system, there should be no liquid remaining in the tank car at the moment of failure in those incidents in which the tank car remains upright. Under this option, there could be situations where the tank car pressures slightly exceed the pressures prescribed in § 179.100–15 and § 179.102–11; however, the pressures would not exceed the tank test pressure. A technical analysis explaining the safety validity of this option, and the consistency of the option with safety criteria established in HM–144, is in the docket.

The MTB and FRA are interested in determining the number of tank cars, if any, that have a manway cover with a major dimension or diameter of less than 18 inches. Therefore, it is requested that tank car owners who have cars with a manway cover having a major dimension or diameter of less than 18 inches provide the following information in their comments to the docket:

(a) The reporting marks(s) of the car(s);

(b) the manway cover diameter or major dimension, layout, and arrangement, including the location of all valves and fittings;

(c) a description of the existing insulation system on the tank car; and

(d) a list of all hazardous materials that are transported in the particular car(s).

At the present time and with the information available, MTB and FRA do not believe a rule requiring a retrofit of existing specification 105 tank cars having capacities less than 18,500 gallons carrying the identified hazardous materials is warranted on a cost/benefit basis. Many of these cars are nearing the end of their service life. Hence, the cost of retrofit might not be recovered in the remaining tank car life. More importantly, these smaller capacity cars have a lower utilization rate, reducing their exposure to potential accident situations. Finally, their smaller capacity presents a smaller safety risk should they be involved in an accident.

The second area of consideration for potential rulemaking listed in the ANPRM was to extend the specified puncture and thermal protection levels of specification 112 and 114 tank cars (HM–144) to existing specification 105 tank cars that transport other hazardous materials such as ethylene oxide, butadiene, poisons, and combustible and flammable liquids or solids.

Beyond some general mention of certain hazardous materials, the commenters did not support the extension of thermal and puncture requirements as applied to flammable and toxic poisons to "other" hazardous materials carried in existing specification 105 tank cars. The MTB and FRA have reviewed the safety record and the threats posed by all of the hazardous materials carried in specification 105 tank cars. Using the same rationale as was used in the final rule in HM–174, the MTB and FRA believe that the characteristics and threats posed by ethylene oxide are so close to materials classes as flammable gas that the same retrofit requirements should be adopted for tank cars used to transport this material. The expected benefits are the same as those identified for flammable gases.

The FRA is unable to justify similar retrofit requirements for specification 105 tank cars carrying other hazardous materials. This is true even though hazardous materials such as chlorine, acrolein, and motor fuel anti-knock compounds have properties that pose a high risk in accidents. However, these hazardous materials differ from flammable gases in that the identical level of thermal protection may not provide the same duration to failure or alleviate the potential catastrophic consequences to the same degree. Moreover, these hazardous materials are often carried in cars with different and better relative protection levels than tank cars authorized for flammable gases.

In regard to thermal protection, the more dangerous of the other hazardous materials undergo rapid decomposition or polymerization at elevated temperature, but neither the failure mechanisms nor countermeasures are as yet adequately tested or understood. For example, in the case of chlorine, it has not been determined that there have been any accident consequences that would definitely have been avoided if high temperature thermal protection identical to that required for flammable gases had been in place. Moreover, unlike flammable gases, a thermally induced rupture of a chlorine car would not increase the fire or continue a chain reaction spread of fire engulfment.

The MTB and FRA also considered increased puncture resistance for existing cars carrying hazardous materials such as chlorine, motor fuel anti-knock compound, and sulfur dioxide. The MTB and FRA are not convinced that an increased puncture

resistance requirement is justified based on accident experience and the current protection levels built into the cars authorized to transport these materials. The primary basis for this view is the fact that these hazardous materials are required to be shipped in tank cars with pressure ratings in excess of that needed to contain these products. Therefore, these cars already have some increased degree of built-in puncture resistance. Although this tank head puncture resistance may not be equivalent to HM-144/HM-174 performance levels, the safety record of these cars is such that MTB and FRA cannot now justify their retrofit or redesign to achieve an incremental amount of additional protection. It should also be noted that all specification 105 tank cars carrying hazardous materials are now required to have shelf couplers (per HM-174), which diminishes the probability of coupler-inflicted tank punctures.

With the exception of ethylene oxide, MTB did not find sufficient threats to safety, nor cost-benefit justification, for proposing an extension of thermal and head protection for tank cars to materials other than those addressed in dockets HM-144 and HM-174.

The final area of consideration identified in the ANPRM suggested that there may be safety benefits in regulatory action to extend the specified puncture and thermal protection levels of the specification 112 and 114 tank cars (HM-144) to other new and existing specification tank cars that carry the same hazardous materials as specification 105 tank cars, *e.g.*, certain specification 111 tank cars.

The MTB and FRA have examined the hazardous materials transported in both specification 105 tank cars and specification 111 tank cars. There are approximately 300 specification 111A100W4 tank cars that are authorized to move flammable gases and ethylene oxide, the hazardous materials determined by MTB and FRA to warrant additional protection. The size of this fleet will not increase, because on October 9, 1981 the Association of American Railroads (AAR) specified that:

(a) After October 1, 1981, no specification 111A100W4 tank cars may be newly built for or converted to ethylene oxide service. Existing specification 111A100W4 tank cars in ethylene oxide service must comply with the coupler restraint requirements of 49 CFR § 179.105-6 by March 31, 1982; and

(b) After October 1, 1981, each class 105 tank car converted to ethylene oxide service must comply with Class 105J coupler restraint, head shield and thermal protection requirements for new construction.

However, for the same reasons as previously stated with respect to the large (over 18,500 U.S. gallons) specification 105 tank cars, MTB and FRA believe that the retrofit of the large specification 111 tank cars carrying ethylene oxide and flammable gases is cost beneficial.

In order to be consistent with the AAR actions and avoid unnecessary complexity, the proposed rule does not authorize any newly constructed specification 111 tank cars for ethylene oxide or flammable gas service. New construction of specification 111 tank cars is not needed since specification 105 tank cars may be constructed to carry these commodities.

**Section-By-Section Analysis**

*Section 173.124 Ethylene oxide.*

It is proposed to amend paragraph (a)(5) of § 173.124 to require that each specification 105 tank car built before September 1, 1981, with a capacity in excess of 18,500 U.S. gallons, shall conform to specification 105J when transporting ethylene oxide after December 31, 1986. (Specification 105 tank cars built after August 31, 1981 are currently required to conform to specification 105J when transporting ethylene oxide.) Requiring a specification 105J tank car would mean that existing specification 105 tank cars would have to be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 if they are to continue in ethylene oxide service.

It is also proposed to amend paragraph (a)(5) to require that each specification 111 tank car, with a capacity in excess of 18,500 U.S. gallons, conform to specification 111J when transporting ethylene oxide after December 31, 1986. Thus, each existing specification 111 tank car would have to be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 in order to continue to carry ethylene oxide.

*Section 173.314 Requirements for compressed gases in tank cars.*

It is proposed to amend this section to require that existing DOT specification 105 tank cars (those built prior to September 1, 1981) used to transport anhydrous ammonia, and with a capacity exceeding 18,500 U.S. gallons capacity, be retrofitted by December 31, 1986 with lower tank head protection, *i.e.*, conform to specification 105S. It is further proposed that existing specification 105 tank cars with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, be retrofitted with thermal protection, head protection, and large safety valves by December 31, 1986, *i.e.*, conform to specification 105J. It is also proposed to require that each specification 111 tank car with a capacity exceeding 18,500 U.S. gallons, used to transport flammable gases, shall conform to specification 111J.

*Section 179.102-12 Ethylene oxide.*

It is proposed to amend this section to require that existing specification 105 tank cars (built prior to September 1, 1981 and with a capacity exceeding 18,500 gallons) used to transport ethylene oxide be retrofitted with high temperature thermal protection, tank head protection, and large safety valves by December 31, 1986 if they are to continue in ethylene oxide service.

*Section 179.105-7 Safety relief valves.*

It is proposed to add a new paragraph (c) which would allow the use of smaller safety valves if the thermal protection exceeds the minimum thermal protection required in § 179.105-4.

*Section 179.106-1 General.*

It is proposed to amend this section by requiring that existing specification 105 tank cars manufactured to the specifications of the Canadian Transport Commission conform to the same standards prescribed for DOT specification 105 tank cars.

*Section 179.106-3 Previously built cars.*

It is proposed to amend this section by establishing performance requirements for specification 105S and 105J tank cars build before September 1, 1981. The proposed requirements for the 105S and the 105J tank cars in this section are identical to the requirements in § 179.106-2 for new cars.

*Section 179.200-27 Alternative requirements for tank head puncture resistance systems.*

It is proposed to add this section to clarify that specification 111 tank cars may utilize a head shield as prescribed in § 179.100-23 instead of meeting the puncture resistance requirements in § 179.105-5.

*Section 179.202-18 Ethylene oxide.*

It is proposed to add a new paragraph (a) (10) in § 179.202-18 to require that each specification 111 tank car used after Decembeer 31, 1986 for the

transportation of ethylene oxide, with a capacity exceeding 18,500 U.S. gallons, conform to class 111J.

*Section 179.203 Special requirements for specification 111 tank cars.*

It is proposed to add a new section setting out special requirements for specification 111 tank cars that is parallel to § 179.106 for specification 105 tank cars.

**Economic Impact**

MTB has determined this proposed rule is not a "major rule" under the terms of Executive Order 12291, but it is "significant" under DOT procedures (44 FR 11034). A regulatory evaluation and environmental assessment is available in the Docket at the address shown above. Based on the comments received in response to the ANPRM and the information contained in the regulatory evaluation, I certify that this proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

**List of Subjects in 49 CFR Parts 173 and 179**

Railroad safety, Hazardous materials transportation.

In consideration of the foregoing proposed rule, Parts 173 and 179 of Title 49 Code of Federal Regulations would be amended as follows:

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

1. In § 173.124, paragraph (a) (5) would be amended by adding paragraph (iii) and (iv) to read as follows:

**§ 173.124 Ethylene oxide.**

(a) * * *

(5) * * *

(iii) After December 31, 1986, each specification 105 tank car built before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to specification 105J.

(iv) After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to DOT specification 111J.

* * * * *

2. In § 173.314, notes 23 and 24 to the table in paragraph (c) would be revised to read as follows:

**§ 173.314 Requirements for compressed gases in tank cars.**

* * * * *

(c) * * *

Note 23.—Each specification 105 tank car built after August 31, 1981, shall conform to class DOT–105J. After December 31, 1986, each specification 105 tank car build before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–105J. After December 31, 1986, each specification 111 tank car with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–111J.

Note 24.—Each specification 105 tank car build after August 31, 1981, shall conform to class DOT–105S. After December 31, 1986, each specification 105 tank car build before September 1, 1981, and with a water capacity (shell full volume including manways) exceeding 18,500 U.S gallons, shall conform to class DOT–105S

* * * * *

## PART 179—SPECIFICATIONS FOR TANK CARS

3. In § 179.102–12, paragraph (a) (10) would be added to read as follows:

**§ 179.102–12 Ethylene oxide.**

(a) * * *

(10) After December 31, 1986, each tank built before September 1, 1981, and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, used for the transportation of ethylene oxide, shall conform to class DOT–105J.

4. In § 179.105–7, paragraph (c) would be added to read as follows:

**§ 179.105–7 Safety relief valves.**

* * * * *

(c) Notwithstanding paragraph (a) of this section, § 179.100–15, and § 179.102–11, the relieving or discharge capacity of a specification 105 or 111 tank car built before (the effective date of the final rule) and with a manway cover having a dimension or diameter of less than 18 inches may be calculated in accordance with the formula prescribed in AAR Specifications for Tank Cars, Section A 8.02. of Appendix A applicable to compressed gases in insulated tanks, if—

(1) The tank car is equipped with a thermal protection system in accordance with § 179.105–4; and

(2) in all of the three consecutive simulation pool fire tests required by paragraph (d) of § 179.105–4, none of the thermocouples on the uninsulated side of the steel plate indicates a plate temperature in excess of 540°F.

5. In § 179.106–1, paragraph (e) would be added to read as follows:

**§ 179.106–1 General.**

* * * * *

(e) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 105 tank car manufactured before September 1, 1981 to specifications promulgated by the Canadian Transport Commission and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, may be used after December 31, 1986 to transport hazardous materials unless it is equipped in accordance with § 179.106–3.

6. Section 179.106–3 would be revised to read as follows:

**§ 179.106–3 Previously built cars.**

(a) Each specification 105A tank car built before March 1, 1981, shall be equipped with a coupler restraint system that meets the requirements of § 179.105–6.

(b) Each specification 105S tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105–6; and

(2) A tank head puncture resistance system that meets the requirements of § 179.105–5.

(c) Each specification 105J tank car built before September 1, 1981, shall be equipped with:

(1) A coupler restraint system that meets the requirements of § 179.105–6;

(2) A thermal protection stystem that meets the requirements of § 179.105–4;

(3) A safety relief valve that meets the requirements of § 179.105–7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105–5.

7. Section § 179.200–27 would be added to read as follows:

**§ 179.200–27 Alternative requirements for tank head puncture resistance systems.**

Tank cars required to have puncture resistance systems in accordance with § 179.105–5 may, as an alternative, be equipped with a head shield, at the end of each car in accordance with a head shield at the end of each car in accordance with the requirements of § 179.100–23.

8. In § 179.202–18, paragraph (a)(10) would be added to read as follows:

**§ 179.202–18 Ethylene oxide.**

(a) * * *

(10) After December 31, 1986, each tank built with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons shall conform to class DOT–111J.

9. Section 179.203 would be added to read as follows:

**§ 179.203 Special requirements for specification 111 tank cars.**

**§ 179.203–1 General.**

(a) In addition to the requirements of this section, each tank car built under specification 111 shall meet the applicable requirements of §§179.200, 179.201, and 179.202.

(b) Notwithstanding the provisions of §§ 179.3, 179.4, and 179.6, AAR approval is not required for changes in or additions to specification 111 tank cars in order to comply with this section.

(c) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 111 tank car manufactured to specifications promulgated by the Canadian Transport Commission may be used after February 28, 1985, to transport hazardous materials in the United States unless it is equipped with a coupler vertical restraint system that meets the requirements of § 179.105–6.

(d) Notwithstanding the provisions of § 173.8 of this subchapter, no specification 111 tank car manufactured before October 1, 1981 to specifications promulgated by the Canadian Transport Commission and with a water capacity (shell full volume, including manways) exceeding 18,500 U.S. gallons, may be used after December 31, 1986 to transport flammable gases or ethylene oxide unless it is equipped in accordance with § 179.203–2.

**§ 179.203–2 Previously built cars.**

(a) Each specification 111J tank car built before (the effective date of the final rule) shall be equipped with:

(1) A coupler vertical restraint system that meets the requirements of §179.105–6;

(2) A thermal protection system that meets the requirements of § 179.105–4;

(3) A safety relief valve that meets the requirements of § 179.105–7; and

(4) A tank head puncture resistance system that meets the requirements of § 179.105–5.

**§ 179.203–3 Stencilling.**

Each specification 111 tank car built before (the effective date of the final rule) that is equipped as prescribed in § 179.203–2(a) shall be stenciled by having the letter "J" substituted for the letter "A" in the specification marking.

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

Issued in Washington, D.C. on March 30, 1983.

**Alan I. Roberts,**

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

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