

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-167; Amdt. No. 173-48]

Intermodal Portable Tanks; Delay of Certain Compliance Dates

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

ACTION: Final rule; delay of certain compliance dates.

SUMMARY: This final rule amends § 173.32a of the Hazardous Materials Regulations by extending the time for modifying, rerating and remarking as IM portable tanks those portable tanks built under DOT exemptions, in order to provide sufficient time for these designated approval agencies to develop their implementing procedures. Also, the Associate Director for HMR will issue a general notice to exemption holders of portable tanks delaying the termination date for new construction of tanks from April 30, 1981 to September 30, 1981. In addition, this final rule provides an extension from September 1, 1981, to October 1, 1981, of the notification date before which owners or manufacturers of portable tanks operating under a DOT exemption must advise the Associate Director of HMR of the reasons such tanks cannot meet the IM 101 or IM 102 specifications.

EFFECTIVE DATE: This amendment is effective July 10, 1981.

FOR FURTHER INFORMATION CONTACT: Richard C. Barlow (202-755-4906) or Joseph T. Horning (202-426-2075), Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Office hours are 8:00 a.m. to 4:30 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 29, 1981, the MTB published a final rule under Docket HM-167 (46 FR 9880) which authorized the use of two new packaging specifications for portable tanks. The major thrust of the rulemaking was to provide a specification packaging and a means for certifying the packaging in place of applying for and operating under an exemption. The final rule provided for the marking of certain portable tanks with IM specification identifications if they were built before May 1, 1981, under the terms of a DOT exemption.

At the time the final rule was issued, MTB anticipated a quick response from agencies who desired to become designated approval agencies. Presently, only the American Bureau of Shipping and Lloyd's Register Industrial Services have been designated as approval agencies. Several other organizations have applied for approval agency status and they may be issued authorizations in the near future. In order to provide sufficient time for these designated approval agencies to develop their implementing procedures, the Associate Director for HMR will issue a general notice to exemption holders of portable tanks affected by this rule delaying the termination date for new construction under exemptions from April 30, 1981, to September 30, 1981. MTB believes this delay will provide portable tank manufacturers with sufficient time to obtain certification for new construction from an authorized approval agency. Additionally, MTB is extending the date for owner/manufacture certification of portable tanks from before September 1, 1981, to before October 1, 1981.

This rulemaking is exempt from the reporting requirements of Executive Order 12291 because it is not considered "major" as defined in the order and only involves extension of the compliance dates specified in the rule issued under Docket HM-167, which is already in effect.

In consideration of the foregoing, § 173.32a is amended to read as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In § 173.32a, the introductory text of paragraph (e) and paragraph (e)(3) are revised to read as follows:

§ 173.32a Approval of Specification IM portable tanks.

* * * * *

(e) *Approval of IM portable tank under DOT exemption.* The owner or manufacturer of an IM portable tank constructed before October 1, 1981, which is covered by the provisions of a DOT exemption, shall examine the tank and its design to determine if it meets the requirements of an IM 101 or IM 102 specification portable tank.

* * * * *

(3) If an IM portable tank covered by an exemption cannot meet the appropriate requirements specified in paragraph (e)(1) of this section, the owner or manufacturer of the portable tank shall advise the Associate Director for HMR before October 1, 1981, giving

the reasons why the necessary modification cannot be made. After reviewing this notification, the Associate Director for HMR may authorize the tank to be remarked (certified) as a DOT specification IM 101 E**** or IM 102 E**** (with the asterisks replaced by the DOT exemption number).

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

Note.—The Materials Transportation Bureau has determined that since these changes in compliance dates do not impose additional requirements, this document will not result in a "major rule" under the terms of Executive Order 12291, is not a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), and does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Issued in Washington, DC on July 7, 1981.

L. D. Santman,

Director, Materials Transportation Bureau.

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