Suite 1300, 999 18th Street, Denver, Colorado 80202-2413, Phone: 303/293-1794.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–266 and 124 and 270. On July 3, 1986, EPA published a **Federal Register** Notice pursuant to 40 CFR 271.9 which requires States to have authority to regulate the hazardous components of radioactive mixed wastes in order to maintain authorization to administer the State's hazardous waste program pursuant to Subtitle C of RCRA.

B. Colorado

Colorado received final authorization for its hazardous waste program on November 2, 1984. On July 17, 1986, Colorado submitted a program revision application for additional program approval for the hazardous components of radioactive mixed wastes. Today, Colorado is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(4).

EPA has reviewed Colorado's application and has made a tentative determination that Colorado's program revision will satisfy all the requirements necessary for final authorization if Colorado adds certain information to its Program Description. Specifically:

(1) The revised Program Description submitted on July 23, 1986, does not address in adequate detail the State agency staffing and funding to carry out the hazardous components of radioactive mixed wastes program. No information was provided regarding the number of staff available in the Radiation Division to carry out the hazardous components of radioactive mixed wastes activities and their professional backgrounds; and

(2) The State did not provide numerical estimates in the revised Program Description, based on available data, of the radioactive mixed wastes handlers within the State.

EPA's tentative determination to authorize the State is based on Colorado's commitment to provide the proposed revisions in the application before EPA's final decision. Colorado intends to provide these revisions by August 15, 1986. Because the Colorado Department of Health has a certified health physicist on the Hazardous Waste Division staff and additionally has been conducting a radiation program for the past 15 years, EPA does not foresee the State not being able to submit adequate documentation. Consequently, EPA intends to grant Colorado final authorization for this program revision. The public may submit written comments on EPA's decision up until September 7, 1986. Copies of Colorado's application for the program revision and EPA's comments are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice.

Approval of Colorado's program revision for the hazardous components of radioactive mixed wastes shall become effective when the Regional Administrator's final approval is published in the **Federal Register**. If adverse comment pertaining to Colorado's program revision discussed in this notice is received, EPA will publish either (1) a notice of disapproval or (2) a final determination approving the revision, which would include appropriate response to any comments.

The Colorado program revision for which this authorization modification decision is proposed allows Colorado to regulate the hazardous components of radioactive mixed wastes—those wastes that contain hazardous wastes subject to RCRA and radioactive wastes subject to the Atomic Energy Act (AEA).

Colorado has not requested hazardous waste program responsibility on Indian lands. The Environmental Protection Agency retains all hazard waste authority under RCRA which applies to Indian lands in Colorado.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Colorado's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administration practice and procedures, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 31, 1986.

John G. Welles,

Regional Administrator.

[FR Doc. 86-17975 Filed 8-7-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-183B; Notice No. 86-6]

Rear Bumpers on Cargo Tank Truck

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The RSPA and the Bureau of Motor Carrier Safety (BMCS) are proposing to provide a period of 36 months to allow rear bumpers to be installed on cargo tank trucks (power units), commonly called bobtails, being operated in combination with cargo tank full trailers. Cargo tank trucks operated separately must be equipped with a rear bumper as required by 49 CFR 178.340-(b).

This action is being taken to provide a reasonable time frame which would allow operators of cargo tank trucks operated in combination with cargo tank full trailers to modify their units by adding the required rear bumper. It has been brought to the attention of the RSPA and the BMCS that there are approximately 3500 units operating primarily in the western States which do not comply with the required rear bumper specifications. Strict enforcement of the rear bumper requirement would necessitate removal of all affected units from operations, thus seriously affecting the ability of the industry to accomplish gasoline and fuel oil deliveries.

DATES: Comments must be received by September 22, 1986.

ADDRESSES: Address comments to the Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addresses stamped post card. The Dockets Branch is located in Room 8426 of the Nassif Builing, 400 7th Street SW Washington, DC. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Fulnecky (202) 755–1011, Office hours are 7:45 a.m. to 4:15 p.m., Bureau of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation, Washington, DC 20590

or

James K. O'Steen (202) 755–4906, Office hours are 8:00 a.m. to 4:30 p.m., Office of Hazardous Materials Transportation, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION: Section 178.340–8(b) has been in effect since December, 1967 and similar bumper requirements have been in effect since the early 1940's for previously manufactured specification cargo tanks. This section requires that all cargo tanks must be protected by the use of rear bumpers. However, a large number of cargo tank trucks (commonly called bob-tails) used in combination with cargo tank full trailers have been manufactured without rear bumpers. The number of units manufactured without rear bumpers is estimated to be approximately 3500. These combination units are used primarily for the transportation of gasoline, fuel oil and other petroleum distillate products.

As a result of accidents and incidents involving the transportation of hazardous materials in cargo tanks, increased emphasis has been placed on cargo tank compliance for the past few years. This increased emphasis, combined with research efforts evaluating the integrity of all specification cargo tanks and increased adoption and enforcement of the Hazardous Materials Regulations (HMR's) by individual States, has resulted in disclosure of violations of the HMR's with respect to cargo tank operation and manufacture. One area specifically indentified was the lack of rear bumpers on cargo tank trucks operated in and out of combination with cargo tank full trailers.

In March, 1983, the California Highway Patrol (CHP) requested an interpretation regarding the rear bumper requirements for a three-axle cargo tank truck towing a towing a two-axle cargo tank trailer. A letter of interpretation was issued by the BMCS, in coordination with the RSPA, to the CHP in April, 1983, which stated:

> Section 178.340–8(b) specifically requires that "every" cargo tank be provided with a rear bumper. In the example sited two cargo tanks are present, the cargo tank attached to the towing unit and the cargo tank attached to the trailer. Therefore, both cargo tanks must be equipped with rear bumpers as required by this section.

Similar letters of interpretation were issued to carriers and manufacturers during 1983. Subsequently, the CHP issued a directive stating that no enforcement actions would be taken regarding the absence of rear bumpers due to petitions for rulemaking filed with the RSPA by industry representatives requesting relaxation of the rear bumper requirements for "doubles" and a pending rulemaking action regarding cargo tanks by the DOT. However, in December 1983 the CHP Cargo Tank Advisory Committee, comprised of the CHP, State Fire Marshal, proprietary carriers, for-hire carriers, petroleum companies, tank manufacturers and DOT, was advised that the present requirement for rear bumpers on all cargo tanks was in effect and enforceable by the BMCS whether or not the CHP withheld enforcement.

The RSPA and BMCS published a joint rulemaking regarding manufacture, testing and in-use requirements for cargo tanks (HM–183, 183A) on September 17, 1985. In this NPRM, the petitions for rule change requesting that rear end tank protection be required only on the rearmost unit of a "double" cargo tank motor vehicle configuration were denied stating:

> . . . The petitioners argued that the present requirement adds cost and weight to the cargo tank configuration with no safety benefits. We do not agree. We believe that the forward unit of a "double" is vulnerable to rear-end tank damage particularly in turning maneuvers. This vulnerability increases in proportion to the length of the draw bar between the cargo tank units. The forward unit of a "double" is at times operated without the protection afforded by the rear units. Operation of such a forward unit, whether with a full load or with only residual lading presents an unacceptable risk. . . .

As part of the administrative proceedings on Docket HM–183, 183A, two public hearings and two public meetings were conducted. At the public hearing in Burlingame, California, held in December, 1985, the DOT again stated that rear bumpers are required on all cargo tanks and that those without rear bumpers are in violation of the regulations. It remains our opinion that rear bumpers are required on all cargo tank motor vehicles. These rear bumpers provide protection to the tank and associated piping in the event of a rear-end collision.

Several enforcement cases involving the lack of a rear bumper on cargo tanks were initiated in 1985. Subsequent to the NPRM and enforcement cases, representatives of the affected industry requested a meeting with the RSPA and BMCS. These representatives indicated that if immediate compliance was required, the economic impact of removing all cargo tanks that are not in compliance would be harmful to the economy. Additionally, it was stated that such an action would also serve to threaten public safety in that enough petroleum products might not be delivered to support public or private transportation as well as emergency response units. It was also stated that the lack of enforcement of this requirement for more than 40 years fostered the belief by manufacturers and cargo tank operators that such cargo tanks complied with the regulations.

We do not concur with the argument that lack of enforcement indicated acceptance of cargo tanks manufactured without rear bumpers. It is our opinion that the regulation requiring rear bumpers is quite clear and that cargo tanks manufactured without the rear bumpers are in violation of the regulations. Additionally, the Federal Motor Carrier Safety Regulations (FMCSR's) (49 CFR Parts 350 through 399) require rear end protection on each motor vehicle. Therefore, the rear bumper is used to comply not only with the HMR's, but also, with the FMCSR's.

However, we do acknowledge that strict enforcement of the rear bumper requirement could cause hardship both for motor carriers and the public in general. Because of the potential hardship, we are proposing to allow a 36 month time period for cargo tank operators to bring their units into compliance. By allowing this time period, little, if any, interruption of petroleum product delivery should occur. This proposal would also allow motor carriers the ability to bring into compliance portions of their fleets on a periodic basis, thus eliminating the potential for removing all non-complying units at a single time.

It should be noted, however, that the proposed 36 month compliance period applies only to those units that are operated in "double" combinations. If a cargo tank truck is operated without the cargo tank full trailer attached, a rear bumper is mandatory. Operation of the cargo tank truck without a rear bumper would be a violation of the regulations and would be subject to enforcement and penalty actions.

Alternative

Industry representatives have indicated that they know of no incidents that have occurred due to a lack of a rear bumper on the cargo tank truck. Additionally, the Truck Trailer Manufacturers Association has requested a grandfathering of existing cargo tank trucks from the rear bumper requirements and suggested a modification to the regulations which would require such cargo tank trucks to be operated only in combination when no bumper is present.

In order to fully assess the requirement for a rear bumper on these combination units, we are requesting information regarding accident history and other pertinent comments regarding the need for a rear bumper. Additionally, OHMT and BMCS are requesting that interested persons submit constructive comments, together with supporting data, for or against the rules proposed in this notice. The submission of general comments without supporting data or documentation will not assist OHMT and BMCS in the development of a final rule. OHMT and BMCS are particularly interested in receiving constructive comments in the following areas:

(1) What would be the incremental costs of requiring a rear bumper to be installed on presently non-complying units?

(2) Presently, a cargo tank manufacturer is required to certify that the cargo tank is manufactured in accordance with all applicable requirements. The manufacturer of the cargo tank may not know if the cargo tank truck is to be operated in combination with a cargo tank full trailer. What method of certification would be necessary for the cargo tank manufacturer to assure that the cargo tank truck complies only when operated in combination with a cargo tank full trailer?

(3) What marking should be required to be displayed on the cargo tank truck to indicate that a bumper is required when it is not being operated in combination?

(4) Should a existing cargo tank truck be grandfathered, while newly manufactured cargo tanks be required to be equipped with a rear bumper?

(5) Does tow bar length have any effect on safety particularly in cornering maneuvers where the cargo tank truck could be struck from the rear?

(6) How would compliance with the bumper strength requirements be met when a temporary bumper is installed on the cargo tank truck when not operated in combination with a cargo tank full trailer? What is the likelihood that the temporary bumper may or may not be installed properly?

(2) How frequently are cargo tank trucks, without rear bumpers, operated not in combination with a full trailer?

Administrative Notice

Based on limited information available concerning the size and nature of entities likely to be affected, I certify that this regulation, if promulgated, will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Also, in view of the type of changes, RSPA has further determined that this rulemaking (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will not affect not-for-profit enterprises, or small governmental jurisdicitons; and (4) does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A draft regulatory evaluation is available for review in the Docket.

List of Subjects in 49 CFR Part 173

Shippers—General requirements for shipments and packagings.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

PART 173—SHIPPERS-GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1808; 49 CFR 1.53, unless otherwise noted.

2. In § 173.33, paragraph (a)(2) would be added as follows:

§ 173.33 Qualification, maintenance and use of cargo tanks.

(a) * * *

(2) Notwithstanding the requirement of paragraph (b) of this section, the requirement for rear bumpers as specified for specification MC 300, 301, 302, 305, and 306 (section 178.340–8) cargo tanks, does not apply to a cargo tank truck (power unit), manufactured prior to (publication of the Final Rule) and used to transport gasoline and other petroleum distillate products, operated in combination with a cargo tank full trailer until (36 months after publication of the Final Rule). However, this exception does not apply when a cargo tank truck (power unit) is operated without cargo tank full trailer.

* * * * *

Issued in Washington, DC on Aug. 1, 1986 under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 86-17882 Filed 8-7-86; 8:45 am]

BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. MC-123; Notice No. 86-10]

Safety Fitness Determination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA issued a notice of proposed rulemaking which was published in the **Federal Register** June 25, (51 FR 23088) with the comment period closing on August 11. An extension of the closing date has been requested in which the petitioner believes there are a number of critical issues raised that cannot be fully evaluated within the time currently provided. The closing date is therefore being extended to September 12.

DATE: Comments must be received on or before September 12, 1986.

ADDRESS: All comments should refer to the docket number which appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transporttion, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety (202) 366–2983; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are