

the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information. Therefore, the FHWA finds good cause exists to publish this final rule without notice and comment, and to make it effective upon publication in the *Federal Register*.

Rulemaking Analyses and Notices

Regulatory Impact

The action taken by the FHWA in this document defers the effective date that the FHWA's controlled substances testing rules will apply to foreign-based employees of foreign-domiciled motor carriers. This delay is being adopted to allow discussions with foreign governments to continue in an orderly and effective fashion. The FHWA, therefore, finds good cause to promulgate the amendment as a final rule without prior notice and opportunity to comment.

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, the FHWA considers this document to be significant because of public interest in the drug testing program and the international impact of this document.

Regulatory Flexibility Act

It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.

Paperwork Reduction Act

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 and has determined that this action would not have any effect on the quality of the environment.

Regulation Identifier Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 391

Alcohol abuse, Controlled substances, Drug abuse, Drug testing, Highway safety, Highways and roads, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Safety, Transportation.

Issued on: June 30, 1992.

T.D. Larson,
Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulation, Subtitle B, Chapter III, Part 391 as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS [AMENDED]

1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. App. section 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

Subpart H—Controlled Substances Testing

2. In § 391.83, paragraph (c) is revised to read as follows:

§ 391.83 Applicability

* * * * *

(c) This subpart is not applicable until January 2, 1995, with respect to any foreign-based employee of a foreign-domiciled carrier.

[FR Doc. 92-16358 Filed 7-13-92; 8:45 am]

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Federal Railroad Administration

49 CFR Part 219

[FRA Docket No. RSOR-6, Notice No. 33]

RIN 2130-AA43

Alcohol/Drug Regulations: Postponement of International Application

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA issues a final rule delaying to January 2, 1995, the application of random drug testing requirements to railroad personnel based outside the United States. This delay in implementation is adopted in order to allow negotiation with foreign governments to continue in an orderly and effective fashion.

DATES: This final rule is effective on July 14, 1992.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-30), FRA, room 8201, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Patricia V. Sun, Trial Attorney (RCC-30), FRA, Washington, DC 20590 (Telephone: (202) 366-4002).

SUPPLEMENTARY INFORMATION: On November 21, 1988, the Federal Railroad Administration published random drug testing requirements. 53 FR 47102. The random testing rule amended § 219.3 of the existing rule to provide that subpart G of the regulation does not apply to any person for whom compliance with the subpart would violate the domestic laws or policies of another country and to provide that the random testing rule (subpart G) would not apply until January 1, 1990, with respect to certain foreign operations. On May 23, 1989, FRA amended the applicability provisions dealing with operations of foreign railroads (54 FR 22284; May 23, 1989) by extending to January 1, 1991, the date on which Subpart G would become effective with respect to any employee whose place of reporting or point of departure for rail transportation services is located outside the United States. In order to provide additional time for negotiations with foreign governments, FRA subsequently issued two more rules, the last of which extended this compliance date further to January 1, 1993. 56 FR 18990; April 24, 1991. (Operations of foreign carriers have been subject to FRA alcohol/drug regulations other than random testing

since implementation in 1986. 49 CFR part 219; 50 FR 31508; Aug. 2, 1985. This applicability is not affected by the action discussed here.)

The Department's initial efforts in this area were focussed on discussions with Canada, because the rules of five different modal administrations could affect Canadian businesses. During the past year, discussions with other countries also have been held, and the difficulty of achieving effective bilateral agreements has become clear. Although the DOT could allow its regulations to take effect even for operations outside the U.S., the Department recognizes that (1) it would be difficult of U.S. carriers to effectively implement the regulations without cooperation from foreign governments; (2) in response, foreign governments could impose restrictions on U.S. operations; and, perhaps most importantly, (3) there are distinct advantages to be gained in aligning foreign measures and U.S. measures, especially as they relate to international transportation operations. For these reasons, the U.S. has decided to pursue multilateral efforts.

In order to facilitate this process, FRA is postponing application of the random drug testing requirements to foreign-based personnel until January 2, 1995. This schedule will apply to all such foreign operations, whether or not there have been formal notifications of conflicts with local law or policy. The postponement does not affect testing of U.S.-based employees.

Regulatory Procedures

FRA finds that notice and opportunity for comment are not necessary because the effect of the amendment is to provide additional time for compliance. FRA also finds that providing such notice would be contrary to the public interest because of the need to conduct ongoing international negotiations in an atmosphere of comity and cooperation. FRA finds that there is good cause for making this amendment effective less than 30 days from publication, since its effect is to provide additional time for compliance.

This rule has been evaluated in accordance with existing regulatory policies. It is not a "major" rule under Executive Order 12291 but is "significant" as defined under DOT policies and procedures. The amendment contained in the final rule does not have any significant paperwork, Federalism or economic impact. To the extent any such impact exists, the amendments will lessen regulatory burdens by increasing the time available to comply with regulations previously issued. Because

the amendments do not have any significant economic impact, FRA has not prepared a regulation evaluation. It is certified that this final rule will not have significant economic impact on a substantial number of small entities under the provisions of Regulatory Flexibility Act (5 U.S.C. 60 *et seq.*).

Therefore, in consideration of the foregoing, part 219, title 49, Code of Federal Regulations is amended as follows:

List of Subjects in 49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, Safety, Transportation.

PART 219—[AMENDED]

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. No. 100-342; and 49 CFR 1.49(m).

2. Section 219.3 is amended by revising paragraph (c) to read as follows:

§ 219.3 Application.

* * * * *

(c)(1) Subpart G of this part shall not apply to any person for whom compliance with that subpart would violate the domestic laws or policies of another country.

(2) Subpart G is not effective until January 2, 1995, with respect to any employee whose place of reporting or point of departure ("home terminal") for rail transportation services is located outside the territory of the United States.

Issued in Washington, DC, on June 29, 1992.
Gilbert E. Carmichael,
Federal Railroad Administrator.
[FR Doc. 92-16359 Filed 7-13-92; 8:45 am]
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Research and Special Programs Administration

49 CFR Part 199

[Docket PS-102; Amdt. No. 7]

RIN 2137-AC

Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations

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

ACTION: Final rule; modification of implementation date.

SUMMARY: RSPA announces a delay in the effective date of regulations governing drug testing, insofar as those regulations would require testing of persons located outside the territory of the United States. Under this final rule, these persons must become subject to testing no later than January 21, 1995.

EFFECTIVE DATE: July 14, 1992.

FOR FURTHER INFORMATION CONTACT: Richard L. Rippert, Alcohol and Drug Program Manager, Office of Pipeline Safety Enforcement (DPS-23), Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590 (Tel. 202-366-6223).

SUPPLEMENTARY INFORMATION: On November 21, 1988, RSPA, along with other agencies of the Department of Transportation, adopted regulations requiring pre-employment, post-accident, reasonable cause, and random drug testing (53 FR 47084).

The drug testing required by these rules applies to some persons located outside of the United States. However, the rules provided that they would not apply to any person for whom compliance would violate the domestic laws or policies of another country. The rules provided that 49 CFR part 199 would not be effective until January 1, 1990, with respect to any person for whom foreign government contends that application of the rule raises questions of compatibility with that country's laws or policies.

At the same time, RSPA stated that the Department of Transportation and other elements of the U.S. government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. We stated that if, as a result of those discussions, we found that an amendment to the rules was necessary, we would issue the amendment by December 1, 1989.

On April 13, 1989, RSPA published an amendment to part 199 (Amdt. No. 199-1; 54 FR 14922) to provide that the rules would not be effective until January 1, 1991, with respect to such persons.

Similar amendments were published on December 27, 1989, extending the effective date until January 2, 1992 (Amdt. No. 19-3; 54 FR 53290), and April 24, 1991, extending the date until January 2, 1993 (Amdt. No. 199-5; 56 FR 18986). These amendments provided additional time while government-to-government discussions tried to reach a permanent resolution of this issue.

DOT has continued active discussions with representatives of the Canadian government and representatives of the

nations of the European Economic community. To allow decisions and agreements to be reached in an orderly fashion, we have determined that additional compliance time is necessary. Accordingly, this final rule postpones the date by which testing must commence for persons located outside the territory of the United States to January 2, 1995. Our action does not postpone testing for any other person, including U.S.-based employees of American subsidiaries of foreign companies.

This final rule delays the applicability of the Part 199 regulations for persons located outside the territory of the United States. Accordingly, RSPA finds that good cause exists under 5 U.S.C. 553(b) and 553(d) to publish this final rule without notice and comment, and to make it effective less than 30 days after publication in the **Federal Register**.

Regulatory Analyses and Notices

Executive Order 12291 and DOT Regulatory Policies and Procedures

This rule is not a major rule under Executive Order 12291, and is significant under DOT's Regulatory Policies and

Procedures. This final rule modifies one of the compliance provisions contained in the final rule published on November 21, 1988, as modified on April 13, 1989, December 27, 1989, and April 24, 1991. It does not change the basic regulatory structure of that rule. The economic impact of this modification is so minimal that further evaluation is not necessary.

Regulatory Flexibility Act

This final rule modifies the effective date of Part 199 only with respect to persons outside the territory of the United States. Therefore, RSPA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not change the recordkeeping and reporting requirements of the final rule published on November 21, 1988.

Executive Order 12612

In accordance with Executive Order 12612, RSPA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 199

Drug testing, Pipeline safety, Reporting and recordkeeping requirements, Safety, Transportation.

In view of the foregoing, 49 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 is revised to read as follows:

Authority: 49 App. U.S.C. 1672, 1674a, 1681, 1804, 1808, and 2002; 49 CFR 1.53.

2. Section 199.1(d) is revised to read as follows:

§ 199.1 Scope and compliance.

* * * * *

(d) This part is not effective until January 2, 1995, with respect to any employee located outside the territory of the United States.

Issued in Washington, DC, on July 2, 1992.

Douglas B. Ham,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 92-16360 Filed 7-13-92; 8:45 am]

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