

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Parts 173, 178 and 180**

[Docket No. 183; Amdt. No. 173-212, 178-89, 180-2]

RIN 2137-AC37

**Construction of Cargo Tank; Motor Vehicles; Extension of Compliance Date**

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

ACTION: Final rule; extension of compliance date.

**SUMMARY:** RSPA is extending the time period, from August 31, 1993 to April 21, 1994, during which cargo tank motor vehicles may continue to be constructed to MC 306, MC 307, MC 312, MC 331, and MC 338 specifications. The extension is based on requests from the Cargo Tank Manufacturing Association, the Truck Trailer Manufacturers Association, the Heil Co., and members of the Compressed Gas Association. This action will allow additional time for RSPA and industry to resolve certain technical issues concerning the manufacture of cargo tank motor vehicles to the recently adopted DOT 406, DOT 407 and DOT 412 specifications and to resolve certain concerns on the structural integrity calculations in the MC 331 and MC 338 specifications.

**EFFECTIVE DATE:** April 7, 1993.

**FOR FURTHER INFORMATION CONTACT:** Ronald Kirkpatrick, telephone (202) 366-4545, Office of Hazardous Materials Technology, or Jennifer Karim, (202) 366-4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:** The final rules published under Dockets Nos. HM-183/HM-183A (June 12, 1989, 54 FR 24982; May 22, 1990, 55 FR 21035; September 7, 1990, 55 FR 37028; June 17, 1991, 56 FR 27872) established three new cargo tank specifications designated as DOT 406, DOT 407 and DOT 412. Manufacture of cargo tanks to these new specifications was authorized beginning on December 31, 1990. The rules also provided alternative methods for calculating design stresses for MC 331 and MC 338 cargo tanks.

To allow manufacturers sufficient time to implement changes in their manufacturing operation, RSPA provided for the continued manufacture

of cargo tanks to the MC 306, MC 307 and MC 312 specifications until August 31, 1993. However, as manufacturers began implementing the new requirements, certain technical issues were brought to RSPA's attention. Petitioners state that there is a need to postpone the compliance date because certain issues have not been resolved by DOT and a public meeting to discuss these issues will not be held until March 1993, thus, threatening the very existence of the industry. In addition, it has been brought to RSPA's attention that requirements for the structural integrity calculation found in §§ 178.337-3 and 178.338-3 may contain an error. Therefore, to allow time for resolving these issues, RSPA is extending the date that cargo tanks may no longer be constructed to the MC 306, MC 307, MC 312, MC 331 and MC 338 specifications from August 31, 1993 to April 21, 1994.

**Rulemaking Analyses and Notices***Executive Order 12291 and DOT Regulatory Policies and Procedures*

This final rule has been reviewed under the criteria specified in section 1(b) of Executive Order 12291 and is determined not to be a major rule. Although the June 12, 1989 final rule was significant under the regulatory procedures of the Department of Transportation (44 FR 11034), this document is not significant because it does not impose additional requirements and has the effect of extending a compliance date. This rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231 *et seq.*) This final rule does not impose additional requirements and, in fact, would provide regulatory and economic relief in some areas. The original regulatory evaluation of the final rule was not modified because this final rule does not impose additional requirements and does not make substantive changes to the final rule.

*Executive Order 12612*

This action has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism"). It has no substantial direct effect on the States, on the current Federal-State relationship, or the current distribution of power and responsibilities among levels of government. Thus, this final rule contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is required.

*Regulatory Flexibility Act*

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. There are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

*Paperwork Reduction Act*

This amendment imposes no changes to the information collection and recordkeeping requirements contained in the June 12, 1989 final rule, which were approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and assigned control number 2137-0014.

*Regulation Identifier Number (RIN)*

A regulation identifier 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 number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects***49 CFR Part 173*

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

*49 CFR Part 178*

Hazardous materials transportation, Motor vehicles safety, Packaging and containers, Reporting and recordkeeping requirements.

*49 CFR Part 180*

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, title 49, chapter I of the Code of Federal Regulations, is amended as set forth below.

**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. app. 1803, 1804, 1805, 1806, 1807, 1808, 1817; 49 CFR part 1, unless otherwise noted.

**§ 173.33 [Amended]**

2. In § 173.33, the following changes are made:

a. In paragraph (c)(4), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (d)(1), the date "August 31, 1993" is revised to read "April 21, 1994".

#### **PART 178—SPECIFICATIONS FOR PACKAGINGS**

3. The authority citation for part 178 would continue to read as follows:

**Authority:** 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1.

##### **§ 178.337-6 [Amended]**

4. In § 178.337-6, in paragraph (a), the date "August 31, 1993" is revised to read "April 21, 1994".

#### **PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS**

5. The authority citation for part 180 continues to read as follows:

**Authority:** 49 U.S.C. app. 1803; 49 CFR part 1.

##### **§ 180.405 [Amended]**

6. In § 180.405, the following changes are made:

a. In paragraph (b), the date "August 31, 1993" is revised to read "April 21, 1994".

b. In paragraph (c)(1) table, under column 2, the date "Sept. 1, 1993" is revised to read "April 22, 1994".

##### **§ 180.413 [Amended]**

7. In § 180.413, in paragraphs (d)(1) (i), (ii) and (iii), the date "August 31, 1993" is revised to read "April 21, 1994".

##### **§ 180.417 [Amended]**

8. In § 180.417, in paragraph (a)(3), the date "September 1, 1993" is revised to read "April 22, 1994".

Issued in Washington, DC on March 2, 1993, under authority delegated in 49 CFR part 1.

**Alan I. Roberts,**

*Acting Administrator.*

[FR Doc. 93-5146 Filed 3-5-93; 8:45 am]

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#### **National Highway Traffic Safety Administration**

##### **49 CFR Part 591**

**RIN 2127-AD00**

[Docket No. 89-5; Notice 12]

#### **Importation of Motor Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This notice amends in two important respects the regulation governing importation of motor vehicles subject to requirements of the Department of Transportation. Under the first amendment, importers of motor vehicles who are required to furnish bonds to NHTSA upon importation of nonconforming vehicles will be permitted, as an alternative to furnishing sureties, to furnish cash deposits or obligations of the United States. The amendment is intended to facilitate the importation of nonconforming vehicles. The second amendment will allow the importation of vehicles less than 25 years old for purposes of studies, provided the vehicle is one of historical or technological interest, and that the importer is, and has been for 5 years before entry of the vehicle, either a tax-exempt corporation or private foundation as recognized by the Internal Revenue Service. Under this allowance, nonconforming vehicles can be imported by museums for static display.

**EFFECTIVE DATE:** The effective date of the final rule is April 7, 1993.

**FOR FURTHER INFORMATION CONTACT:** Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).

**SUPPLEMENTARY INFORMATION:** The following discussion is a recapitulation of the relevant remarks appearing in the preamble of the notice of proposed rulemaking that NHTSA published on this subject on January 17, 1992 (57 FR 2071).

##### **A. Allowance of Surety Equivalents**

Since the initial regulations governing importation of motor vehicles subject to the Federal motor vehicle safety standards became effective in January 1968, an importer of a noncomplying vehicle has been required to furnish an appropriate bond to ensure that the vehicle will be brought into conformity with all applicable Federal motor vehicle safety standards, and, if it is not, that it will be redelivered for export.

Until January 31, 1990, the bond was furnished to the U.S. Customs Service as part of that agency's general importation bond for payment of duty and conformance with other Federal regulations.

Since the amendments made to be National Traffic and Motor Vehicle Safety Act by P.L. 100-562, the Imported Vehicle Safety Compliance Act of 1988 (herein "the 1988 Amendments"), became effective at the end of January 1990, the bond to ensure conformance has become a separate instrument, no longer part of the general Customs bond, and is furnished directly to the Department of Transportation.

In implementation of the 1988 Amendments, NHTSA provided for importation compliance bonds in 49 CFR 591.5(f) in the form shown in appendix A of that regulation, and 591.5(g) in the form shown in appendix B. Initially, bonding companies were reluctant to serve as sureties because of their lack of familiarity with the DOT bonds, and prospective importers found it difficult to obtain them for the importation of their vehicles. Although the situation has improved in general, as sureties have become more familiar with bonding requirements, the situations tend to differ at the smaller ports of entries where importation of vehicles is infrequent. NHTSA on one occasion did accept a cash deposit from an importer in lieu of a bond, when the importer pointed out that Customs itself can accept cash or securities of the United States under bond, as an alternative to providing a surety.

The agency proposed that this alternative be formalized through an amendment to part 591, as it believed that it might relieve an unintended impediment to the importation of motor vehicles when an importer is unable to find a bonding agency willing to serve as surety on DOT bonds. The benefit to DOT is that it directly holds the security for a vehicle, and will not have to go to an outside entity to foreclose on the bond in the event the terms of entry are forfeited. The benefit to the importer is that it allows the importer to provide a bond directly to DOT, and, as surety, to submit United States money, bonds (except for savings bonds), certificates of indebtedness, and Treasury notes or bills in an amount equal to the amount of the bond. At the time of deposit of any obligation other than money, the importer will execute a power of attorney authorizing NHTSA, in the event of default, to sell the obligation and retain the proceeds. A form of power of attorney was proposed as Appendix C to part 591. NHTSA's