

2. We believe the public interest would be served by assigning Channel 292A to Texarkana since it could provide a first competitive service in the community and an additional nighttime voice for the expression of diverse viewpoints.

3. Channel 292A can be assigned to Texarkana consistent with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules provided the transmitter is restricted to an area 6.9 miles southeast of the community to avoid a co-channel conflict with Station KKBI(FM) in Broken Bow, Oklahoma.¹

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Commission's Rules, It is ordered, That effective April 23, 1985, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

| City | Channel No. |
|---------------------|-------------|
| Texarkana, Arkansas | 292A, 296A |

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173

[Docket No. HM-174; Amdt. 173-183]

Coupler Vertical Restraint Systems

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

ACTION: Emergency final rule.

SUMMARY: This amendment modifies § 173.31(a)(7) to permit certain tank cars

¹The proposal herein does not provide for the 16 kilometers (10 miles) buffer to Station KYKX(FM) (Channel 289), Longview, Texas, since the petition was filed prior to the effective date of the new rules (March 1, 1984). See, *Memorandum Opinion and Order* in BC Docket No. 80-90, 49 FR 10280, published March 20, 1984.

to continue in service after February 28, 1985, without coupler vertical restraint systems conforming to 49 CFR 179.105-6. These provisions apply only to tank cars loaded before March 1, 1985, and to so-called empty tank cars subject to § 173.29. This action is necessary on an emergency basis because the MTB has been advised that a small percentage of the tank cars subject to the coupler requirement have not been retrofitted and are loaded and in transit, or are empty, but not cleaned and purged. MTB and FRA believe these remaining cars should be authorized to be moved, but not reloaded until they have been retrofitted with the required couplers.

EFFECTIVE DATE: February 28, 1985.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk (Office of Safety), Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: On January 16, 1981, the Materials Transportation Bureau issued a final rule under Docket HM-174 (Amdt. No 173-145, 46 FR 8005) requiring, *inter alia*, that all DOT Specification tank cars be equipped with coupler vertical restraint systems in accordance with newly adopted requirements specified in 49 CFR 179.105-6. The required compliance date is February 28, 1985. Recently, MTB received six petitions for exemption requesting up to six additional months to retrofit approximately 4,100 remaining cars out of approximately 200,000 tank cars subject to the rule. The petitions were denied. Upon further consideration, MTB and the Federal Railroad Administration (FRA) believe some limited relief is warranted and that it should be provided by an amendment to the rule rather than by individual exemptions.

The limited relief provided by this emergency rule allows a tank car subject to the rule to be transported to destination for unloading if it was loaded prior to March 1, 1985. It also authorizes movement of empty cars that are subject to § 173.29. These exceptions are necessary because of the high probability that a significant number of the unretrofitted cars will be in transit after February 28, 1985, and some provision for their removal from transportation will be necessary. This situation is addressed on an emergency basis because the railroads, even though not responsible for retrofitting the cars involved, may be in violation of the rule upon its effective date merely because they are in possession of the cars at that time. For this reason, and due to possible safety problems in attempting to retrofit or clean and purge empty cars

in consignee facilities, MTB and FRA believe there is merit in granting immediately the relief provided in this amendment.

List of Subjects in 49 CFR Part 173

Packaging and containers.

In consideration of the foregoing, § 173.31 of Part 173 of Title 49, Code of Federal Regulations, is amended as follows:

PART 173—SHIPPERS— REQUIREMENTS FOR SHIPMENTS AND PACKAGING

1. In § 173.31, paragraph (a)(7) is revised to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

(a) * * *

(7) After February 28, 1985, no person may load a DOT Specification tank car unless it is equipped with a coupler vertical restraint system in accordance with § 179.105-6 of this subchapter.

* * *

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

Note.—The Materials Transportation Bureau has determined that this emergency amendment is not a major rule under the terms of Executive Order 12291 or significant under DOT's regulatory procedures (44 FR 11034), and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4231, *et seq.*). A regulatory evaluation was not prepared prior to consideration of issuance of this rule.

Based on information available concerning size and nature of entities likely to be affected, I certify that these amendments will not, as promulgated, have a significant economic impact on a substantial number of small entities.

Based on the potential adverse impact on rail carriers in possession of the subject tank cars should relief from the compliance date not be granted, I have determined that, under 5 U.S.C. 553(b)(3) (B), public notice and an opportunity to comment would not be in the public interest, and this rule may be made effective in less than 30 days.

Issued in Washington, D.C. on February 27, 1985.

L.D. Santman,

Director, Materials Transportation Bureau.

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