

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107 and 180

[Docket No. RSPA-03-10373 (HM-220D)]

RIN 2137-AD86

Hazardous Materials: Approval Program for Certain Persons Performing Visual Requalification of DOT Specification Cylinders; Extension of Compliance Date

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

ACTION: Interim final rule; extension of compliance date and request for comments.

SUMMARY: RSPA is extending the compliance date of the regulations contained in 49 CFR 107.805(f) and 180.209(g) of the Hazardous Materials Regulations that require persons who perform visual requalification of DOT specification cylinders to obtain approval from RSPA and to mark the requalifier identification number assigned by RSPA on cylinders successfully requalified after September 30, 2003. This September 30, 2003 date is extended to May 31, 2004.

DATES: *Effective Date.* This rule is effective September 26, 2003.

Compliance Date: Delayed compliance with certain requirements is as specified in the regulatory text.

Comments Date: Comments must be received by October 27, 2003.

ADDRESSES: You may submit comments identified by the docket number RSPA-01-10373 (HM-220D) by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

• Mail: Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001. If sent by mail, comments are to be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard.

• Hand Delivery: Docket Management System; Room PL-401 on the plaza level

of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. All comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477-78), or you may visit <http://dms.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to the Docket Management System (*see ADDRESSES*).

FOR FURTHER INFORMATION CONTACT: Linda Cooper, (202) 366-4512, Office of Hazardous Materials Approvals and Exemptions, or Sandra Webb, (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On August 8, 2002, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket No. RSPA-01-10373 (HM-220D) (67 FR 51625) amending the requirements of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The revisions were made to simplify the regulations, respond to petitions for rulemaking, address recommendations of the National Transportation Safety Board, and enhance the safe transportation of hazardous materials in cylinders. The effective date of the final rule was October 1, 2002.

The August 8, 2002 final rule extended current approval requirements for persons who requalify DOT specification cylinders to persons who requalify certain cylinders by performing a complete external visual inspection. The rule requires each person who performs a visual inspection in accordance with § 180.209(g) to obtain an approval from us and to mark the requalifier identification number assigned by RSPA on a cylinder that successfully passes a visual requalification after September 30, 2003. The approval requirements are

contained in § 107.805(f). The approval requirements do not apply to a person who does prefill cylinder inspections such as prescribed in § 173.301(a)(2) or annual inspection of self-contained breathing apparatus (SCUBA) cylinders and who does no visual requalifications under § 180.209(g). After publication of the final rule, we received more than 2,300 applications and many telephone calls from persons asking about the approval requirements.

Because of the number of applications that we continue to receive, we are not able to complete processing and assigning requalifier identification numbers by the October 1, 2003 compliance date and we are concerned that many affected persons may not get their applications in by that date. Therefore, in this interim final rule, we are extending the compliance date after which persons who perform visual cylinder requalifications under § 180.209(g) must obtain approval from us and mark their assigned requalifier identification number on cylinders that have been successfully requalified to May 31, 2004.

II. Comments on This Interim Final Rule

Because October 1, 2003 is the mandatory compliance date currently prescribed in the HMR for marking cylinders with a requalifier identification number, we are issuing this interim final rule without prior notice and public comments. For this same reason, we are making these amendments effective without the customary 30-day delay following publication. Although an opportunity for public comment has not been provided prior to the issuance of this interim final rule, we are seeking public comments to this action. We may further amend the compliance date if warranted, based on the merits of comments.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This interim final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. The interim final rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

This interim final rule amends an August 8, 2002 final rule that made revisions to requirements applicable to the maintenance, requalification, repair and use of DOT specification cylinders.