

amendments relating to IM portable tanks.

DATES: Effective October 30, 1998.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, (202) 366-8553, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On July 10, 1998, RSPA published a final rule under Docket RSPA-97-2905 (HM-166Y) (63 FR 37454) which amended the HMR by incorporating a number of miscellaneous changes. The effective date of the final rule was October 1, 1998, but compliance with all the changes made in the rule was permitted beginning August 25, 1998.

The third sentence in 49 CFR 177.834(h) reads: "Discharge of contents of any container, other than a cargo tank, must not be made prior to removal from the motor vehicle." The final rule contains a revision to relax § 177.834(h) and to add a new paragraph (o) to permit an IM portable tank to be unloaded while remaining on a transport vehicle with the power unit attached, if the tank meets the outlet requirements in § 178.345-11 and is attended during the unloading, as currently required for cargo tank motor vehicles under § 177.834(i). Section 178.345-11(b)(1)(iii) requires that the remote means of closure must be capable of thermal activation when required by part 173 for materials which are flammable, pyrophoric, oxidizing, or poisonous liquids. This important safety feature provides for the valve to close in a fire situation, without operator intervention.

After publication of the final rule, RSPA received three petitions for reconsideration addressing the revisions to § 177.834. The three petitioners, the Tank Container Association (TCA), Merck & Co., Inc. and the Hazardous Materials Advisory Council (HMAC) requested that RSPA reconsider the October 1, 1998 mandatory compliance date. The petitioners contend that most existing IM portable tanks are not fitted with a fusible link, as prescribed in § 178.345-11, and that fitting the IM portable tanks with the device by October 1, 1998, is not feasible. All three petitioners stated that fusible links are not available from the IM portable tank valve suppliers. The petitioners' request for an extension of the compliance date ranged from one year to five years. In addition, HMAC requested that RSPA defer implementation of § 177.834(o) and enforcement of current § 177.834(h).

TCA stated in its comments to the notice of proposed rulemaking under Docket RSPA-97-2905 that compliance with the requirement in § 178.345-11(b)(1)(iii) for the remote means to be capable of thermal activation was not possible. On September 2, 1998, RSPA representatives met with TCA representatives and a representative from Fort Vale Engineering Limited, a manufacturer of IM portable tank valves, to obtain additional information on TCA's comment concerning compliance with § 178.345-11(b)(1)(iii). These industry representatives stated that the fusible links for IM portable tanks were not available until recently and that time would be needed to field test and install the devices on the tanks.

RSPA disagrees with the petitioners' requests. Delaying the October 1, 1998 effective date would deny the relief provided in the final rule, that is, the ability to unload an IM portable tank while it remains on a motor vehicle. RSPA understands that many IM portable tanks do not currently conform to the provisions in the final rule. However, this is not a basis for denying relief to operators of IM portable tanks which now, or in the near future, will conform to the new provisions. Further, RSPA does not believe there is any basis for granting HMAC's request for a one year deferral of enforcement of § 177.834(h). RSPA believes that unloading an IM portable tank in the same manner as a cargo tank, but without the same outlet requirements, would pose increased safety risks in a fire situation when an operator is not able to manually activate the closure. Accordingly, under authority of 49 U.S.C. 5101-5127; 49 CFR 1.53, the three petitions for reconsideration are denied.

Issued in Washington, DC, on October 26, 1998, under the authority delegated in 49 CFR part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

[FR Doc. 98-29178 Filed 10-29-98; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket RSPA-97-2995, Notice No. 6]

Control of Drug Use and Alcohol Misuse in Natural Gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations Alcohol Misuse Prevention Program

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

ACTION: Announcement of random drug testing rate.

SUMMARY: RSPA has received and evaluated the 1997 Management Information System (MIS) Data Collection forms for the drug testing of pipeline industry personnel. The RSPA determined that the random positive drug testing rate for the pipeline industry for the period of January 1, 1997, through December 31, 1997, is 0.7 percent. Therefore, the minimum random drug testing rate will be maintained at 25 percent of covered pipeline employees for the period of January 1, 1999, through December 31, 1999.

DATES: Effective January 1, 1999 through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Catrina Pavlik, Drug/Alcohol Program Analyst, Research and Special Programs Administration, Office of Pipeline Safety, Room 7128, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-6199, Fax: (202) 366-4566, e-mail: catrina.pavlik@RSPA.dot.gov. Information is also available on the Office Pipeline Safety's internet home pages at 'OPS.dot.gov.'

SUPPLEMENTARY INFORMATION: In a final rule published on December 23, 1993 (58 FR 68257), RSPA announced that it would require operators of gas, hazardous liquid and carbon dioxide pipelines, and liquefied natural gas facilities, who are subject to 49 CFR parts 192, 193 and 195, to implement, maintain, and submit an annual report of their drug testing program data. Operators with 51 or more covered employees are required to submit this information on an annual basis. Operators with 50 or fewer covered employees are required to maintain this information, and RSPA randomly selected 100 operators in this category to submit their data. The drug testing statistical data is essential for RSPA to analyze its current approach to deterring and detecting illegal drug abuse in the

pipeline industry, and, as appropriate, plan a more efficient and effective approach. In 1997, RSPA lowered the random drug testing rate to 25 percent. Since the positive random testing rate continues to be less than 1 percent industry-wide, the RSPA announces in accordance with § 199.11(c)(3), that the minimum random drug testing rate will be maintained at 25 percent of covered pipeline employees for the period of January 1, 1999, through December 31, 1999.

Submission of MIS reports are due to the Office of Pipeline Safety, Research and Special Programs Administration, DPS-23, Room 7128, 400 7th Street SW., Washington, DC 20590, not later than March 15 of each calendar year. Notice of statistical data will be published in the future to report results of each calendar year's MIS Data Collection results. At that time, the RSPA will also publish whether or not the random rate will be reduced or increased for the pipeline industry pursuant to § 199.11.

Issued in Washington, DC on October 23, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98-29081 Filed 10-29-98; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018-AE99

Amendment by Brazil to Appendix III Listing of Bigleaf Mahogany Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule announces an amendment to the Appendix III listing of bigleaf mahogany (*Swietenia macrophylla*) under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention). The species in the Americas and its logs, sawn wood, and veneer sheets have been included in Appendix III since November 1995, based on an action by the Government of Costa Rica. The Government of Brazil has supplied information to the CITES Secretariat to independently include the species in Appendix III to support its national legislation for the species and

the need for cooperation of other CITES countries in controlling the international trade.

DATES: *Effective Date:* This rule is effective on October 30, 1998.

Applicability Date: The change to the Appendix III listing for the Brazilian population of the species as set forth in this rule entered into force on July 26, 1998, under the terms of the Convention.

ADDRESSES: Please send correspondence concerning the amendment announced in this rule to Chief, Office of Scientific Authority, ARLSQ 750; U.S. Fish and Wildlife Service; Washington, DC 20240; fax number 703-358-2276. Express and messenger deliveries should be addressed to Chief, Office of Scientific Authority, Room 750; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive; Arlington, Virginia 22203.

The text of the Appendix III notification from the Convention's Secretariat is available on request, and related materials are available for public inspection by appointment from 8:00 a.m. to 4:00 p.m. Monday through Friday, at the above address in Arlington, Virginia.

Please send certificate/permit questions or any applications concerning this regulation to Chief, Office of Management Authority; U.S. Fish and Wildlife Service; 4401 North Fairfax Drive, Room 700; Arlington, Virginia 22203; fax number 703-358-2281. Express and messenger deliveries should be addressed to Chief, Office of Management Authority, at that Arlington address.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Lieberman, Chief, Office of Scientific Authority, phone 703-358-1708, fax 703-358-2276, E-mail r9osa@mail.fws.gov; or the Office of Management Authority, telephone 800-358-2104, E-mail r9oma_cites@mail.fws.gov.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) regulates international trade in certain animal and plant species. The species for which trade in particular specimens is controlled are listed in one of three appendices. Appendix III is comprised of species that any Party country has informed the CITES Secretariat are subject to regulation within its jurisdiction for purposes of restricting or preventing exploitation, and for which it needs the cooperation of other Parties to control the specimens in international trade. Resolution Conf.

9.25 (Rev.) provides guidance to assist Parties in determining individually whether a species would qualify for inclusion in Appendix III.

Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless the trade in specimens is strictly controlled. Appendix II also can include species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other traded species). Resolution Conf. 9.24 provides criteria and guidance to assist the Parties in determining together (usually at a Conference of the Parties or COP) whether a species would qualify for inclusion in Appendix I or Appendix II. Under CITES, only those species included in Appendix I are banned from international trade for primarily commercial purposes.

The present rule revises the list of CITES species that is reproduced in the U.S. Code of Federal Regulations (CFR) at 50 CFR 23.23(f). The current information following COP10 (see below) was published in the **Federal Register** of August 22, 1997 (62 FR 44627). As advanced by the Government of Brazil pursuant to Article XVI paragraph 1 of the Convention, the present rule acknowledges that now Brazil, Bolivia, and Costa Rica have added *Swietenia macrophylla* (bigleaf mahogany (also respectively called mogno, mara, or caoba)) to Appendix III in support of their domestic conservation measures and need for cooperation of other Parties. Brazil in October 1965 at an inter-American conference had put this species in the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and on April 3, 1992 (by Decree No 37-N) had included the species with other Brazilian species considered to be at risk.

The species continues to be included in CITES Appendix III in the Americas (i.e., South America, Central America, the Caribbean, and North America), including only its logs, sawn wood, and veneer sheets as the parts or derivatives covered by the provisions of the Convention. Thus, products such as finished furniture are excluded. Moreover, export of specimens from plantations located outside the Americas is not regulated. (At COP10 in