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P-1381

RSPA-1999-12621-1

May 3, 1999

177609

Associate Administrator for Hazardous Materials Safety
400 Seventh Street, S.W.
Washington, D.C. 20590

Attn: Mr. Alan Roberts

Ref: Petition for rulemaking as per 49 CFR 106.31

Dear Sir:

After a conversation this morning with Phil Olsen in RSPA, I am submitting the following petition as per 49 CFR 106.31 for a change in the rules concerning Intermodal tanks (Specifically IM 101 and IM 102 tanks).

(b) 1) To summarize the proposed action and it's purpose:

An IM 101 or IM 102 tank could be constructed before Jan. 1997 and not have to be equipped with an internal discharge valve with a shear section as required by 49 CFR 178.270-12. In the event that a regulated material is shipped in a tank like this an internal valve is required. During the DOT RSPA meeting in Lafayette, LA in November of 1998, this was discussed and the determination was that tanks built before the 1/97 date did not have to have this valve arrangement, however if the tanks are used for the shipment of regulated materials the valve is required.

My concern is this: Suppose a company has a mixture of tanks with and without internal valves and the tanks are part of a rental fleet. A company could rent the tanks and be filling them with a regulated material, looking only for the IM 101 or IM 102 markings and not necessarily be looking at the valve arrangement. I could envision hazardous material being introduced into a tank which is not equipped for the shipment of that material because there is not that much difference in the appearance of the tank. The person filling the tanks may or may not be knowledgeable of the valve requirements.

2) The text of the proposed rule:

“Any IM 101 / 102 tank built before Jan. 1997, not equipped with an internal discharge valve must have the following stenciled in at least two inch letters on a contrasting background the following: This tank authorized for the transport of non regulated materials only.” Or something to that effect.

3) My interest in the proposed action:

See number 1 above. Somebody that is not aware of the regulations could very easily put a hazardous material in the wrong tank and think that they are right because the tank is marked as an IM 101 or IM 102.

I represent no outside interests - I am a Authorized Approval Agency for IM 101/102 tanks (Agency Number IM-9702).

4) Information to support the proposed action:

Please review item number 1 above. The issue of transport of materials in these tanks needs to be made as simple as possible. Requiring a roustabout filling tanks with hazardous materials at a facility to be knowledgeable of the Federal Regulations concerning Intermodal Tanks valve requirements may be asking a bit much. The excuse “It looked alright to me” is too easily used in a case like this.

(c) 1) The impact of this proposed action is not substantial.

Please consider this proposal. I think that the DOT intention was for all IM 101/102 tanks to be equipped with an internal discharge valve and that is the reason that the regs were changed 1/97 to eliminate this “loophole”. Requiring a stencil in order to prevent loading unauthorized products into an unequipped tank is not that big a requirement. Thank you for your consideration.

Sincerely,

Michael Burdette, P.E.
Mechanical Engineer