



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

MAY 16 2014

Mr. Robert Montgomery
New York State Department of Transportation
50 Wolf Road POD 53
Albany, NY 12232

Ref No.: 14-0079

Dear Mr. Montgomery:

This is a response to your April 9, 2014 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) with regard to oil spill response plans in Part 130. Specifically, you request clarification on whether an aggregate amount of oil above 1,000 barrels (42,000 gallons) on a single train (train consist) would require a carrier to have a comprehensive oil spill response plan.

The applicability for oil spill response plans is based on the capacity of a single packaging and not an aggregate amount that may be contained in a train consist. Section 130.2(a) states that the requirements of Part 130 apply to (1) Any liquid petroleum oil in a packaging having a capacity of 3,500 gallons or more; and (2) Any liquid petroleum or non-petroleum oil in a quantity greater than 42,000 gallons per packaging. Any person transporting liquid petroleum oil in a packaging having a capacity of 3,500 gallons or more but less than 42,000 gallons (1,000 barrels) is required to have a basic response plan conforming to § 130.31(a). Any person transporting liquid petroleum or non-petroleum oil in a quantity greater than 42,000 gallons per packaging must have a comprehensive response plan conforming to the requirements of § 130.31(b).

It should be noted that on January 23, 2014, the National Transportation Safety Board (NTSB) issued a Safety Recommendation (R-14-5) requesting PHMSA "revise the spill response planning thresholds contained in Title 49 Code of Federal Regulations Part 130 to require comprehensive response plans to effectively provide for the carriers' ability to respond to worst-case discharges resulting from accidents involving unit trains or blocks of tank cars transporting oil and petroleum products." In response to their recommendation, PHMSA and FRA are currently considering revisions to 49 CFR Part 130 in a future rulemaking.

I hope this information is helpful. If you have any more questions, please do not hesitate to contact this office.

Sincerely,

Robert Benedict
Chief, Standards Development
Standards and Rulemaking Division

Suchak
§172.101
Applicability
14-0079

Drakeford, Carolyn (PHMSA)

From: Betts, Charles (PHMSA)
Sent: Wednesday, April 09, 2014 4:06 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Question

Importance: High

Carolyn-

Please log and assign for response. I am requesting an expedited handling for this response.

Thanks,
Charles

From: Montgomery, Robert (DOT) [<mailto:Robert.Montgomery@dot.ny.gov>]
Sent: Wednesday, April 09, 2014 4:01 PM
To: Abbenhaus, Colleen (PHMSA); Betts, Charles (PHMSA)
Cc: Thomas, Clifford (DOT)
Subject: FW: Question
Importance: High

Ms. Abbenhaus,

It was a pleasure to meet with you today and we certainly appreciate your assistance with these crude oil issues going forward.

Part 130.31 (b) mentions no person may transport oil in quantity greater than 1000 barrels (42,000 gallons) unless that person has a comprehensive written plan. It doesn't mention a packaging as it does in Section 130.2.

If a railroad has multiple carloads in a train consist that exceeds 1,000 barrels but the packaging is less than 1,000 barrels (Say several DOT111 tank cars 30,000 gallon capacity coupled together in a unit train), are they required to have a comprehensive plan as described in that section?

Because the packaging isn't mentioned in Section 130.31, it would seem that a comprehensive written plan is required because the railroad is transporting more than 1000 barrels in the train consist.

Your comment on this section is appreciated.

Thanks,

Bob

From: Thomas, Clifford (DOT)
Sent: Wednesday, April 09, 2014 1:30 PM
To: Montgomery, Robert (DOT)
Subject: Fw: Question
Importance: High

FYI

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message-----

From: Colleen.Abbenhaus@dot.gov
Date: Wed, 4/9/2014 12:16 PM
To: Thomas, Clifford (DOT);
Subject:Fw: Question

The official interpretation.
Colleen Abbenhaus

----- Original Message -----

From: Betts, Charles (PHMSA)
Sent: Wednesday, April 09, 2014 12:11 PM Eastern Standard Time
To: Abbenhaus, Colleen (PHMSA)
Subject: RE: Question

Part 130 applies to :

1. Any liquid petroleum oil in a packaging having a capacity of 3,500 gallons or more; and
2. Any liquid petroleum or non-petroleum oil in a quantity greater than 42,000 gallons per package.

130.2(a) and (b) are stand-alone requirements.

I hope this helps.

-----Original Message-----

From: Abbenhaus, Colleen (PHMSA)
Sent: Wednesday, April 09, 2014 12:01 PM
To: Betts, Charles (PHMSA)
Subject: Re: Question

They are first trying to figure out who is responsible for that section, and based on how Section 130.2 is written, does (a) and (b) apply or do either apply.
Colleen Abbenhaus

----- Original Message -----

From: Betts, Charles (PHMSA)
Sent: Wednesday, April 09, 2014 11:55 AM Eastern Standard Time
To: Abbenhaus, Colleen (PHMSA)
Subject: RE: Question

Good morning Colleen-

What is the question?

-----Original Message-----

From: Abbenhaus, Colleen (PHMSA)
Sent: Wednesday, April 09, 2014 11:46 AM
To: Betts, Charles (PHMSA)
Subject: Question

I am at a meeting and a question regarding Section 130 came up. Who can I reach out regarding this section.
Colleen Abbenhaus