

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration49 CFR Parts 171, 172, 173, 174, and
176

[Docket No. HM-214; Notice No. 93-9]

RIN: 2137-AC31

Oil Spill Prevention and Response
Plans; Request for Comments and
Notice of Public HearingAGENCY: Research and Special Programs
Administration (RSPA), DOT.ACTION: Interim final rule; reopening of
comment period and notice of public
hearing.

SUMMARY: RSPA published an interim final rule to address oil spill prevention and response plans in the Federal Register on February 2, 1993 (58 FR 6864). This document responds to requests for an extension of the comment period and a public hearing. In light of petitions and comments received, RSPA is reopening the comment period and announcing a public hearing to gain more detailed information on the interim final rule.

DATES: *Written comments.* The date for receiving written comments is extended from April 5, 1993, to June 3, 1993.

Public Hearing. The public hearing will be held from 9:30 a.m. to 5 p.m. on May 13, 1993, in Washington, DC.

ADDRESSES: *Written comments.* Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Docket Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

Public Hearing. The public hearing will be held at the Federal Aviation Administration's Auditorium, 3d Floor, 800 Independence Avenue, SW., Washington, DC 20591.

Any person wishing to present an oral statement at the public hearing should notify Thomas Allan, by telephone or in writing, by May 7, 1993. Each request must identify the speaker; organization represented, if any; daytime telephone number; and the anticipated length of the presentation, not to exceed 10

minutes. Written text of the oral statement should be presented to the hearing officer prior to the oral presentation. The hearing may conclude before 5 p.m. if all persons wishing to testify have been heard.

FOR FURTHER INFORMATION CONTACT: Thomas Allan, Deputy Director, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

SUPPLEMENTARY INFORMATION: On February 2, 1993, RSPA published an interim final rule in the Federal Register (58 FR 6864) amending the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to specify minimum standards for the safe transportation of oil and to require the preparation of plans for responding to discharges of oil. The rule also implements requirements of the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA-90). OPA-90 requires both response planning and prevention procedures for the discharges of oil. Based on the existing prevention requirements in the HMR and to address the OPA-90 mandate, RSPA amended the HMR to include previously unregulated oils (e.g., non-petroleum oils).

Several commenters have requested a public hearing to discuss the provisions of the interim final rule and an extension of the comment period, and this notice responds to their requests. A particular concern expressed in comments is the designation of previously unregulated oils, notably animal and vegetable oils with flash points at or above 200 degrees F., as hazardous materials.

Based on a preliminary review of public comments submitted to the docket, and related articles appearing in the media, RSPA believes that several requirements of the rule have been misunderstood. The areas of greatest misunderstanding relate to the transportation of oils which were previously unregulated. Those areas include: (1) General applicability of the rule to oil in bulk quantities; (2) placarding of transport vehicles; and (3) the need for a hazardous materials endorsement to a vehicle operator's commercial driver's license (CDL).

Paragraph (d) of § 173.155 (58 FR 6871) specifically excepts oil (other than hazardous wastes, hazardous substances, and marine pollutants) in non-bulk packagings from all requirements of the HMR. The term non-bulk packaging includes packagings

having a maximum capacity of 450 liters (119 gallons) or less as a receptacle for a liquid. Thus, oil contained in drums, pails, bottles and other non-bulk packagings (not otherwise regulated as hazardous materials) is not classed as a hazardous material.

For domestic transportation, paragraph (f)(9) of § 172.504 excepts bulk packagings containing oil (Class 9) from the requirement to display the hazard warning placard. RSPA previously determined that the display of the identification number only on bulk packages adequately alerts emergency response personnel to the limited threat to health and property presented by Class 9 materials.

Section 383.93 of the Federal Motor Carrier Safety Regulations specifies requirements for a hazardous materials endorsement on a CDL. That requirement applies to operators of commercial motor vehicles which are required to be placarded for hazardous materials. As indicated above, bulk packagings (e.g., cargo tanks) containing oil (Class 9) are excepted from requirements for placarding during domestic transportation. Thus, the interim final rule has no new effect on the status of commercial vehicle operators.

Request for Comment

Affected persons are reminded that the preamble to the interim final rule requested comments on the following issues:

- Feasibility and workability of the rule (58 FR 6865).
- Whether any bulk packagings are used to transport oil in quantities exceeding 1,000 barrels (58 FR 6868).
- Whether any different or additional criteria should be used to determine which facilities should be required to file an extensive response plan (58 FR 6868).
- Effective date (February 2, 1995) of Federal preemptive effect of the rule (58 FR 6869).
- Estimated costs and benefits of the rule (58 FR 6869).
- Estimated burden hours and costs associated with the information collection requirements of the rule (58 FR 6869).

Issued in Washington, DC, on April 15, 1993, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,
Associate Administrator for Hazardous
Materials Safety.

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