

Pipeline & Hazardous Materials Safety Administration (PHMSA)

Notice of Proposed Rulemaking: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

To Protect People and the Environment From the Risks of
Hazardous Materials Transportation



PHMSA Office of Hazardous Materials Safety

Rulemaking	Stage	Docket
HM-251A: Review and Update of Rail Carrier Regulations in Part 174	Pre-NPRM	2137-AF07
HM-251B: Oil Spill Planning and Information Sharing for High-Hazard Flammable Trains	NPRM	2137-AF08
HM-251C: FAST Act Requirements for Flammable Liquids and Rail Tank Cars	Final	2137-AF17

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Rulemaking	Update
HM-251A: Review and Update of Rail Carrier Regulations in Part 174	Before the publication of an NPRM, PHMSA and FRA are working with the Railroad Safety Advisory Committee (RSAC), a consortium of industry and governmental experts to come to a consensus and vote on recommendations to update rail carrier requirements. Next meeting, January 2017.
HM-251B: Oil Spill Planning and Information Sharing for High-Hazard Flammable Trains	<ul style="list-style-type: none"> • Currently an open-rulemaking. • NPRM Published on July 29, 2016 • Comment Period closed Sept 27, 2016 • Over 110 comments received • Final rule scheduled for publication July 29, 2017
HM-251C: FAST Act Requirements for Flammable Liquids and Rail Tank Cars	<ul style="list-style-type: none"> • Direct Final Rule published August 15, 2016 • Revised phase-out for DOT 111 tank car • 1/2" thermal protection blanket for DOT-117 and DOT-117R • Top fittings protection for DOT-117R



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Hazardous Materials: Oil Spill Response Plans and Information Sharing for HHFTs

- Summary:
 - Responds to the 259 comments representing more than 70,000 signatories received in response to the 8/1/14 Advance Notice of Proposed Rulemaking.
 - Revise the applicability of comprehensive oil spill response plans based on thresholds of petroleum oil that apply to an entire train.
 - Require railroads to share information about HHFT operations with states and tribal governments (e.g. SERCs and TERCs)



Why are changes to comprehensive OSRPs necessary?

- The domestic energy boom has led to an increase in rail transportation of petroleum crude oil in unit trains.
- Currently, unit train shipments of petroleum oil are only covered by basic plans, which are inadequate to address the increased safety risk posed by unit trains.
- National Transportation Safety Board (NTSB) Recommendation R-14-5 recommended expanding the applicability of comprehensive plans to capture the risk from unit trains.

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Who is included by the proposed rule's expanded applicability?

- Proposes to expand applicability for comprehensive oil spill response plans to railroads transporting High-Hazard Flammable Trains with 20 or more cars in a continuous block or 35 or more cars throughout the train loaded with liquid petroleum oil.



What is the purpose of the proposed comprehensive OSRPs?

- Better integrate rail requirements into the federal oil spill response plan structure.
- Comprehensive plans require railroads to identify response zones (12 hours)
- Comprehensive plans ensure by contract or other means the capability to respond to a worst-case discharge (WCD).
 - Proposed method for calculating the WCD = the greater of: 300,000 gallons; or 15% of the largest quantity of oil reasonably expected to be transported by any single train in a response zone

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How does the rule propose comprehensive OSRPs be organized?

- Core Plan — Information that does not change between response zones
- Response Zone Appendices — Information specific to each response zone (e.g. location specific information)
 - Response zones = groupings of routes or route segments (identified by the railroad) utilizing the response equipment and personnel capable of responding within 12 hours to a WCD or the substantial threat of one.



What does the rule propose OSRPs include?

- Front-page information summaries to facilitate usability and enforceability of the plans;
- Communication — Checklist of emergency response notifications listed by priority with specified time frames.
- Response zone specific information
 - Location of resources or certification of Oil Spill Response Organization (USCG certified).
 - Description of response zone
 - Identification of environmentally sensitive areas



What does the rule propose OSRPs include?

- Other requirements
 - Certification of consistency with National Contingency Plan (NCP) /Area Contingency Plan (ACP) to integrate into the federal oil spill response structure;
 - Use of National Incident Management System (NIMS)/Incident Command Structure (ICS) for ability to operate in a unified command,
 - Procedures for training, drills, equipment testing, and recordkeeping

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Where and when are comprehensive plans proposed to be submitted?

- Initial plans are submitted to the Federal Railroad Administration (FRA) for approval.
- Railroads must re-submit plans to the FRA for approval if there are significant changes.
- Railroads must review the plans every five years (or after an incident).



What comprehensive plan questions are asked in the proposed rule?

- Should “High Volume Areas” be defined within the plan, and require a faster response time (e.g. 6 hours)? What criteria should be used?
- Are the proposed training requirements sufficient, or should the Qualified Individual should be trained to the Incident Commander level using the Incident Command System (ICS)?
- How can regulatory flexibility be provided to bona fide small entities that pose a lesser safety risk and may not be able to comply with the requirements of the proposed rule due to cost concerns, limited benefit, or practical considerations?

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Why is PHMSA proposing HHFT information sharing notification?

- To improve community preparedness and expand upon previous actions:
 - **May 28, 2015:** DOT [announces](#) that the May 2014 [Emergency Order](#) regarding emergency response notifications for shipments of petroleum crude oil by rail will remain in full force and effect until further notice while the agency considers options for codifying the May 2014 disclosure requirement on a permanent basis.
 - **December 4, 2015:** The president signed the FAST Act into law, which requires DOT to develop regulations for railroad operators to share real-time Emergency Response Information and to codify the May 2014 Emergency Order for HHFTs.



Who must the railroads notify for the new HHFT requirement?

- Railroads must notify State Emergency Response Centers (SERCs), Tribal Emergency Response Centers (TERCs), or other appropriate state designated entities who share information with other state and local public agencies upon request, as appropriate.
- Railroads provide the notification to DOT officials upon request.



What is proposed to be required to include in the HHFT notification?

- A reasonable estimate of the number of HHFTs that are expected to travel, per week, through each county within the state.
- The routes over which the affected trains will be transported.
- A description of the materials shipped and applicable emergency response information required by HMR subparts C and G of 49 CFR part 172.
- At least one point of contact at the railroad (including name, title, phone number and address) for the SERC, TERC, and relevant emergency responders related to the railroad's transportation of affected trains.



What is proposed to be required to include in the HHFT notification?

- For petroleum oil trains subject to the Comprehensive Oil Spill Response Plan, the contact information for the qualified individuals and description of response zones compiled under 49 CFR part 130 must also be provided to SERCs, TERCs, or other appropriate state-delegated entities.



When/how often is notification required to SERCs and TERCs?

- Proposes to require monthly notification or certification of no change of HHFT trains to ensure that changes to frequency or volume are clearly communicated.
- Notifications are then provided by SERCs or TERCs to authorized local government officials upon request. However, railroads may mark information confidential for security or business reasons.



What HHFT Notification questions for commenters are included in the proposed rule?

- Should the proposed notification requirements be provided directly to organizations other than SERCs, TERCs, or other state delegated agencies?
- What is the best approach to provide information to tribal governments (e.g. TERCs, the National Congress of American Indians for further dissemination, or other)?
- What alternative means by which PHMSA can fulfill the FAST Act's direction to establish security and confidentiality protections, where this information is not subject to security and confidentiality protections under Federal standards?



Questions?

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