This rulemaking would expand the applicability of comprehensive oil spill response plans (OSRP) based on
thresholds of liquid petroleum oil that apply to an entire train consist. The rulemaking would also require railroads to
share information about high-hazard flammable train operations with State and tribal emergency response
commissions to improve community preparedness in accordance with the Fixing America’s Surface Transportation
Act of 2015 (FAST Act). Finally, the rulemaking would incorporate by reference an initial boiling point test for
flammable liquids for better consistency with the American National Standards Institute/American Petroleum Institute
2014.

This rulemaking is important to mitigate the effects of potential train accidents involving the release of flammable
liquid energy products by increasing planning and preparedness. The proposals in this rulemaking are shaped by
mandates in Fixing America’s Surface Transportation (FAST) Act of 2015, public comments, National Transportation
Safety Board (NTSB) Safety Recommendations, analysis of recent accidents, and input from stakeholder outreach
efforts (including first responders). To this end, PHMSA will consider expanding the applicability of comprehensive
oil spill response plans; clarifying the requirements for comprehensive oil spill response plans; requiring railroads to
share additional information; and providing an alternative test method for determining the initial boiling point of a
flammable liquid.

The authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to “prescribe regulations for the
safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.” The
Fixing America’s Surface Transportation (FAST) Act of 2015 also includes mandates for the information sharing
notification requirements. The authority of 33 U.S.C. 1321, the Federal Water Pollution Control Act (FWPCA), which
directs the President to issue regulations requiring owners and operators of certain vessels and onshore and
offshore oil facilities to develop, submit, update, and in some cases, obtain approval of oil spill response plans.
Executive Order 12777 delegated responsibility to the Secretary of Transportation for certain transportation-related
facilities. The Secretary of Transportation delegated the authority to promulgate regulations to PHMSA and provides
FRA the approval authority for railroad OSRPs.

In the NPRM, alternatives analyzed included “no change” and changing the applicability threshold to analyze the
impact to affected entities. Under the “no change” alternative we would not proceed with any rulemaking on this
subject and the current regulatory standards would remain in effect. DOT is continuing to research these topics and
evaluate comment feedback prior to the final rule. DOT expects the highest ranked options will be low cost and most
effective at improving planning and preparedness.

In the NPRM, PHMSA performed a breakeven analysis by identifying the number of gallons of oil that the NPRM
would need to prevent from being spilled in order for its benefits to at least equal its estimated costs. Additional
benefits may also be incurred due to ecological and human health improvements that may not be captured in the value of the avoided cost of spilled oil. In the NPRM PHMSA estimated the rule is cost-effective if the requirements reduce the consequences of oil spills by 4.9 percent with ten-year costs estimated at $21,702,175 and annualized costs of $3,089,901(using a 7 percent discount rate). PHMSA faced data uncertainties that limited our ability to estimate the benefits of the proposed rule, and is continuing to analyze anticipated costs and benefits for the final rule.

Risks:

PHMSA expects this rulemaking to mitigate the effects of potential train accidents involving the release of flammable liquid energy products by increasing planning and preparedness.

Timetable:

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<thead>
<tr>
<th>Action</th>
<th>Date</th>
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<tr>
<td>ANPRM</td>
<td>08/01/2014</td>
<td>79 FR 45079</td>
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<tr>
<td>ANPRM Comment Period End</td>
<td>09/30/2014</td>
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<tr>
<td>NPRM</td>
<td>07/29/2016</td>
<td>81 FR 50067</td>
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<td>09/27/2016</td>
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<tr>
<td>Final Rule</td>
<td>07/00/2018</td>
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Additional Information: HM-251B; SB - N, IC - N, SLT - N;
Regulatory Flexibility Analysis Required: Yes
Small Entities Affected: Businesses
Included in the Regulatory Plan: Yes
RIN Information URL: www.regulations.gov
RIN Data Printed in the FR: Yes
Related RINs: Related to 2137-AE91, Related to 2137-AF07

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Government Levels Affected: None
Federalism: No
Public Comment URL: www.regulations.gov
Related Agencies: Common: DOT/FRA;