

# RIN Data

DOT/PHMSA

RIN: 2137-AF08

Publication ID: Fall 2017

**Title:** \*Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains

**Abstract:**

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 Recommend Practices 3000, "Classifying and Loading of Crude Oil into Rail Tank Cars," First Edition, September 2014.

**Agency:** Department of Transportation(DOT)

**Priority:** Other Significant

**RIN Status:** Previously published in the Unified Agenda

**Agenda Stage of Rulemaking:** Final Rule Stage

**Major:** No

**Unfunded Mandates:** No

**EO 13771 Designation:** Regulatory

**CFR Citation:** [49 CFR 130](#) [49 CFR 174](#) [49 CFR 171](#) [49 CFR 172](#) [49 CFR 173](#)

**Legal Authority:** [33 USC 1321](#) [49 USC 5101 et seq.](#)

**Legal Deadline:** None

**Statement of Need:**

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.

**Summary of the Legal Basis:**

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.

**Alternatives:**

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.

**Anticipated Costs and Benefits:**

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:**

Action	Date	FR Cite
ANPRM	08/01/2014	<a href="#">79 FR 45079</a>
ANPRM Comment Period End	09/30/2014	
NPRM	07/29/2016	<a href="#">81 FR 50067</a>
NPRM Comment Period End	09/27/2016	
Final Rule	07/00/2018	

**Additional Information:** HM-251B; SB - N, IC - N, SLT - N;

**Regulatory Flexibility Analysis Required:** Yes

**Government Levels Affected:** None

**Small Entities Affected:** Businesses

**Federalism:** No

**Included in the Regulatory Plan:** Yes

**RIN Information URL:** [www.regulations.gov](http://www.regulations.gov)

**Public Comment URL:** [www.regulations.gov](http://www.regulations.gov)

**RIN Data Printed in the FR:** Yes

**Related RINs:** Related to 2137-AE91, Related to 2137-AF07

**Related Agencies:** Common: DOT/FRA;

**Agency Contact:**

Victoria Lehman  
 Transportation Specialist  
 Department of Transportation  
 Pipeline and Hazardous Materials Safety Administration  
 1200 New Jersey Avenue SE,  
 Washington, DC 20590  
 Phone: 202 366-8553  
 Email: victoria.lehman@dot.gov