

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Part 173****[Docket No. RSPA-99-6223 (HM-213B)]****RIN 2137-AD36****Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids****AGENCY:** Research and Special Programs Administration (RSPA), Department of Transportation (DOT).**ACTION:** Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: RSPA is extending until April 28, 2005, the period for interested persons to submit comments on the December 30, 2004 notice of proposed rulemaking. In the December 30, 2004 NPRM, we proposed to amend the Hazardous Materials Regulations to prohibit flammable liquids from being transported in unprotected product piping on existing and newly manufactured DOT specification cargo tank motor vehicles. If adopted as proposed, this action will reduce fatalities and injuries that result from accidents involving unprotected product piping. This proposal was developed jointly with the Federal Motor Carrier Safety Administration.

DATES: Submit comments by April 28, 2005. To the extent possible, we will consider comments received after this date in developing a final rule.

ADDRESSES: You may submit comments identified by the docket number RSPA-99-6223 (HM-213B) by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Web site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management System; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* To the Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Instructions: You must include the agency name (Research and Special

Programs Administration) and docket number (RSPA-1999-6223 (HM-213B)) or the Regulatory Identification Number (RIN 2137-AD36) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail. If you wish to receive confirmation that RSPA received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to "<http://dms.dot.gov>", including any personal information provided, and will be accessible to Internet users. Please see the Privacy Act section of this document.

Docket: You may view the public docket through the Internet at <http://dms.dot.gov> or in person at the Docket Management System office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Stevens, Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:**I. Background**

On December 30, 2004, the Research and Special Programs Administration (RSPA, we) published a notice of proposed rulemaking (69 FR 78375) under Docket RSPA-99-6223 (HM-213B) to propose changes to the requirements in the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) for the transportation of flammable liquids in unprotected product piping on cargo tank motor vehicles.

The HMR, at § 173.33(e), prohibit the retention of certain liquid hazardous materials in the external product piping (wetlines) of a DOT specification cargo tank, unless the cargo tank motor vehicle (CTMV) is equipped with bottom damage protection devices. The current prohibition applies to liquid hazardous materials in Divisions 5.1 (oxidizer), 5.2 (organic peroxide), 6.1 (toxic), and Class 8 (corrosive to skin only), but does not apply to flammable liquids.

Wetlines are product piping located beneath the cargo tank on MC 306, MC 307, DOT 406, and DOT 407 CTMVs that remain filled with product after loading or unloading. Wetlines on a five-compartment CTMV carrying gasoline typically contain 30-50 gallons of gasoline. If another vehicle strikes the side of a CTMV, the impact likely will fracture unprotected wetlines. In such collisions, the other vehicle is often

wedged under the CTMV. With the driver and passenger(s) trapped in the vehicle, the fractured wetlines may release their entire contents onto the other vehicle. If ignited, fire will rapidly engulf the vehicle. When ignited, a gasoline spill of 50 gallons will create a fire over an area of up to 5000 square feet, dooming those trapped in a vehicle at the site of the release and fire. If it is not extinguished immediately, the fire could result in significant loss of life or damage to property or the environment.

The December 30, 2004 NPRM proposed to prohibit the carriage of flammable liquids in wetlines, unless the cargo tank motor vehicle conforms to the accident damage protection requirements of § 178.337-10 or the bottom damage protection requirements of § 178.345-8(b)(1), as appropriate. We proposed a quantity limit of one liter or less in each pipe after it is drained. The NPRM included an exception from the proposed requirements for truck-mounted DOT specification CTMVs. The NPRM proposed to make the changes effective two years after the effective date of a final rule and to permit CTMV operators five years to phase in requirements applicable to existing CTMVs. The comment period for the proposed rule was to end on February 28, 2005.

The American Trucking Associations (ATA) and its affiliate the National Tank Truck Carriers, Inc. (NTTC), requested an additional 180 days in which to submit comments to the NPRM. ATA stated that an extension is necessary in order to accurately measure the proposal's full impact on the industry. NTTC asserted that a number of assumptions made in the NPRM and regulatory evaluation are wrong and that an extension is necessary in order to solicit and submit correct data from their industry. The Petroleum Marketers Association of America (PMAA) and the American Petroleum Institute (API) also requested an additional 180 days in which to submit comments to the NPRM. PMAA expressed concerns about the costs and available technology as a result of retrofitting existing CTMVs. API's extension request is identical to ATA's.

Because it appears that an extension of the comment period to allow additional time for commenters to address the proposals in the NPRM would be beneficial, we are allowing an additional 60 days for submission of comments, which should be sufficient to accommodate commenters' need for additional time. We do not agree that an extension of 180 days is in the public interest. Accordingly, the closing date of

the comment period is extended to April 28, 2005.

II. Regulatory Notice

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

Issued in Washington, DC, on February 4, 2005 under the authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

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