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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, 177, 178, 179, and 180

[Docket No. PHMSA-2016-0077 (HM-251D)]

RIN 2137-AF24

Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM); Extension of comment period.

SUMMARY: PHMSA is extending the comment period for an advance notice of proposed rulemaking that was published in the **Federal Register** on January 18, 2017. In response to stakeholder requests, the comment period will be extended for an additional 60 days, from March 20, 2017 to May 19, 2017.

DATES: Comments must be received on or before May 19, 2017. To the extent possible, PHMSA will consider late-filed comments during the next stage of the rulemaking process.

ADDRESSES: You may submit comments identified by Docket No. PHMSA-2016-0077 by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: To Docket Operations, Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov>, or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Lad Falat, Director, Engineering and Research, (202) 366-4545, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On January 18, 2017, PHMSA published an advance notice of proposed rulemaking (ANPRM) titled, “Hazardous Materials: Volatility of Unrefined Petroleum Products and Class 3 Materials,” addressing the volatility of unrefined petroleum products and potentially all Class 3 flammable liquids transported by means other than pipeline. See (82 FR 5499). The ANPRM informed stakeholders of a possible change to the Hazardous Materials Regulations based on a petition for rulemaking submitted by the Attorney General of the State of New York regarding vapor pressure limits for crude oil.

The ANPRM posed 39 questions on a wide variety of topics ranging from sampling and testing, proper classification, and numerous characteristics of crude oil relevant to its unique hazards. Specifically, PHMSA sought comments on whether there should be national vapor pressure standards for petroleum products and/or other Class 3 hazardous materials and, if so, recommendations for such thresholds. It was the intent of the ANPRM to obtain the views of those affected by the North Dakota Industrial Commission (NDIC) Order, as well as those who are likely to be impacted by the changes proposed in the petition P-1669 (as discussed in detail in the January 18, 2017

ANPRM), including those who are likely to benefit from, be adversely affected by, or potentially be subject to additional regulation.

PHMSA sought comment on the ANPRM to assist in:

1. Determining the best metric or combination of metrics (vapor pressure or other metric) for measuring and controlling fire and explosion risk in crude oil transport;
2. Quantifying the improvement in safety if any, due to risk reduction from implementation of vapor pressure thresholds at varying levels;
3. Identifying offerors' compliance strategies and market impacts with Reid Vapor Pressure (RVP) standards at varying levels of stringency, and estimating their economic costs and environmental impacts;
4. Identifying other regulations and industry practices, such as volatile organic compound emissions standards imposed through the Clean Air Act, or State regulations, or pipeline operator RVP standards, potentially affecting compliance strategies and costs, and safety benefits;
5. Evaluating the extent to which use of DOT Specification 117 tank cars mitigates the risk of transporting crude oil;
6. Comparing compliance costs of mitigation strategies with risk reduction from adoption of the petition; and
7. Balancing the benefits and costs in setting the level of the chosen metric.

II. Comment Period Extension

PHMSA received an initial request from the American Petroleum Institute (API) to extend the comment period for the ANPRM by 30 days. API indicated in their request that industry needs extra time to obtain information on experiences with classification, testing, sampling, and packaging of unrefined petroleum products. Because of the number of questions posted, the technical nature of the questions, and the potentially broad implications to operations throughout the supply chain, API believes the opportunity for a thorough review before responding to PHMSA is crucial for any future rulemaking. Subsequent to the API request, PHMSA has received additional requests from other entities to extend the comment period. For instance, the North Dakota Petroleum Council also requests an extension; however, they have requested a 60-day extension.

PHMSA provided an initial 60-day comment period to the ANPRM. However, due to our desire to collect meaningful input from a number of potentially affected stakeholders and to the demand by various entities, we agree with the requests to extend the comment period to allow further time for public input. Given the number and variety of requests, PHMSA is extending the comment period by 60 days.

Issued in Washington, DC on March 15, 2017, under authority delegated in 49 CFR 1.97.

William S. Schoonover,
Associate Administrator for Hazardous Materials Safety,
Pipeline and Hazardous Materials Safety Administration.
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