

aircraft without allocating additional spectrum.

2. This is a non-restricted notice and comment rule making proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

3. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 15, 1997, and reply comments on or before January 30, 1997. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You must send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. You may also file informal comments by electronic mail. You should address informal comments to mayday@fcc.gov. You must put the docket number of the proceeding on the subject line ("WT Docket No. 96-211"). You must also include your full name and Postal Service mailing address in the text of the message. Formal and informal comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, DC 20554.

4. Authority for issuance of this NPRM is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

#### List of Subjects

#### 47 CFR Part 17

Antenna, Radio.

#### 47 CFR Part 87

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 194

[Docket No. PS-130, Notice 4]

RIN 2137-AC30

#### Notice of Public Hearing; Response Plans for Onshore Oil Pipelines

**AGENCY:** Research and Special Programs Administration, Office of Pipeline Safety, DOT.

**ACTION:** Announcement of public hearing.

**SUMMARY:** The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) invites industry, government agencies, and the public to a hearing on response plans for onshore oil pipelines. The purpose of the hearing is to solicit comments on whether and how the current regulations on response plans for onshore oil pipelines could be improved. OPS may issue a final rule based on the comments received in writing and at the hearing.

**DATES:** The public hearing will be held on January 29, 1997, from 8:30 a.m. to 4:00 p.m. Persons who are unable to attend may submit written comments in duplicate by December 31, 1996. Interested persons should submit as part of their written comments all material that is relevant to a statement of fact or argument. Comments received after the deadline will be considered so far as practicable. The docket will be kept open for 60 days after the hearing to allow interested persons to review and comment on the transcript.

Persons who wish to make a statement or present information at the public hearing must submit a written request to be included on the agenda. Please include as part of the request the amount of time needed. Requestors will be notified if OPS is required to limit their discussion to allow for all views to be heard.

**ADDRESSES:** The hearing will be held at the New Orleans Hilton Riverside, on Poydras at the Mississippi River in New Orleans, Louisiana. The hotel phone number is (504) 561-0500. Persons who want to participate should call (202) 366-8860 or e-mail their name, affiliation, and phone number to opateam@rspa.dot.gov before close of business December 31, 1996.

Send written comments in duplicate to the Dockets Unit, Room 8421, U.S. Department of Transportation/RSPA, 400 Seventh Street, SW, Washington,

D.C. 20590-0001. Identify the docket and notice numbers stated in the heading of this notice. All comments and docket materials will be available for inspection and copying in Room 8421 between 8:30 a.m. and 4:30 p.m. each business day. A transcript will be available from the Dockets Unit about four weeks after the hearing.

**FOR FURTHER INFORMATION CONTACT:** Jim Taylor, Response Plans Officer, at (202) 366-8860 or e-mail to opateam@rspa.dot.gov, for inquiries about this document, or the Dockets Unit, (202) 366-5046, for copies of this document or other material in the docket.

#### SUPPLEMENTARY INFORMATION:

##### Background

In recent years, several catastrophic oil spills have damaged the marine environment of the United States and caused damage to fish and wildlife. Because of these incidents, Congress passed the Oil Pollution Act of 1990 (OPA 90) to establish a new national planning and response system. OPA 90 requires pipeline operators to develop and test Facility Response Plans (FRP) for each pipeline facility that handles petroleum or refined products.

Under OPA 90, DOT is responsible for establishing procedures, methods and requirements for equipment to prevent and contain discharges of oil from vessels and transportation-related facilities. RSPA's Office of Hazardous Materials Safety has established procedures and planning requirements for discharges from packaging and transportation vehicles in 49 CFR 130. RSPA's OPS has responsibility to establish procedures and planning requirements to prevent discharges from and to contain oil and hazardous substances in onshore pipelines. The United States Coast Guard has similar planning standards for vessels and marine transfer facilities.

On January 5, 1993, OPS published its interim final rule establishing regulations in 49 CFR 194 to require response plans for onshore oil pipelines (58 FR 244). The plans must be consistent with the National Contingency Plan (40 CFR 300), and with each applicable Area Contingency Plan. In its plan review process, OPS emphasizes the operator's understanding of incident command systems, unified command, and the provision of sufficient resources to respond to a worst case discharge. To date, OPS has reviewed and approved more than 800 facility response plans.

OPS also conducts tabletop and area exercises with pipeline operators as a

part of the Preparedness for Response Exercise Program (PREP) in cooperation with the Coast Guard, the Environmental Protection Agency (EPA), and the Department of the Interior's Minerals Management Service (MMS). OPS applies the lessons learned from exercises and from reviews of facility response plans to evaluate how its OPA 90 program is improving the pipeline industry's ability to respond to oil spills. OPS and industry also review experience from actual spills, such as those in Houston, Texas (1994), Gramercy, Louisiana (1996), and Simpsonville, South Carolina (1996) to evaluate the effectiveness of the OPA 90 program.

OPS has found improvements in actual responses resulting from the increased emphasis on planning and preparedness. The Coast Guard's Incident Specific Preparedness Review (ISPR) report on the 1994 San Jacinto spill made several recommendations that OPS has implemented in its program, such as providing an OPS liaison officer to work with the federal on-scene coordinator in the unified command at major pipeline spills. OPS has provided a liaison officer at three major spills since 1994.

On September 6, 1996, the National Transportation Safety Board issued its Pipeline Special Investigation Report on the pipeline spill in the San Jacinto River in 1994 (PB96-917004). The NTSB recommended that OPS "require operators of liquid pipelines to address, in their Oil Pollution Act of 1990 spill response plans, identifying and responding to events that can pose a substantial threat of a worst-case product release" (NTSB Recommendation P-96-21). OPS is seeking comments on what action should be taken to address this issue, in

addition to reminding pipeline operators of the need to plan for a substantial threat of a worst case discharge.

When OPS issued the interim final rule, it invited comments to ensure that the rule was feasible and workable and indicated that, if appropriate, OPS would make changes to the rule. OPS identified several topics on which it sought comment. OPS further indicated that it would consider public hearings to obtain further comments. The topics listed below are issues that have arisen during oil spill exercises and in the course of OPS's review and approval of facility response plans.

State agencies and pipeline operators have been working with OPS for the past four years on the OPA 90 program, and OPS is interested in receiving additional information and comments regarding how the current regulations could be improved prior to issuing a final rule. OPS requests public comment on the following topics:

- Whether the definition of significant and substantial harm as defined in 49 CFR 194.103 should be changed.
- Whether a requirement for operators to have secondary communications systems for emergency response activities should be included in the final rule (Appendix A, Section 2).
- Whether operators should be able to take a 50% credit for the secondary containment around breakout tanks in calculating their worst case discharge volumes per 49 CFR 194.105(b)(3).
- Whether the plan review cycle should be modified from the current three-year cycle (49 CFR 194.121(a)) to a five-year cycle, to be consistent with Coast Guard and EPA requirements.
- Whether a regulatory definition of "oil" for purposes of response planning

should be adopted. If so, how should "oil" be defined—the list published by the Coast Guard (G-MRO) on February 24, 1995, the definition found in 49 CFR 194.5, or a different definition?

- Whether facility response plan requirements for pipelines transporting hazardous substances are needed.
- Whether OPS's internal document "Guidelines for Developing and Evaluating an Oil Spill Response Exercise" should be more widely distributed.
- Whether greater emphasis should be placed on requiring operators to plan for "a substantial threat of a discharge," i.e., including procedures for shutting down the line prior to an actual release of oil, as suggested in the National Transportation Safety Board's recommendation (P-96-21).
- Whether pipeline operators have questions about jurisdictional issues for offshore pipelines.

The transcript of the hearing will be available in the docket approximately four weeks after the hearing. Interested persons not able to attend the hearing may submit comments after reviewing the transcript. After reviewing and considering the comments, OPS will determine how to proceed. OPS may issue a final rule if the comments do not show areas of controversy. If comments show areas of controversy, or suggest amendments that need further comment, OPS may issue a notice of proposed rulemaking seeking further comment.

Issued in Washington, DC on November 21, 1996.

Richard B. Felder,

*Associate Administrator for Pipeline Safety.*

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