objective—improving the spectrum environment for public safety operations in the 800 MHz Band. However, finding some merit in the arguments advanced by CTIA and in the supporting pleadings, we believe that a modest extension of time '' one week '' may serve to compile a more complete record. Therefore, we hereby extend the comment date to February 10, 2003 and extend the reply comment date to February 25, 2003.

Accordingly, *it is Ordered* that CTIA's *Motion for Extension of Time is Granted* to the extent expressed herein and *is Denied* in all other respects, and that the time for filing comments in the captioned proceeding *is Extended* until February 10, 2003 and the time for filing reply comments in the captioned proceeding *is Extended* until February 25, 2003.

Federal Communications Commission.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 03–3275 Filed 2–6–03; 3:02 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 43, 63 and 64

[IB Docket Nos. 02–324, 96–261; DA 03–312]

International Settlements Policy Reform and International Settlement Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: On October 25, 2002, the Federal Communications Commission published a proposed rule document initiating a proceeding to re-examine the Commission's International Settlements Policy. The Commission received comments from a substantial number of foreign carriers or associations based in foreign countries. To ensure proper translations as well as the need for timely access to the initial comments, the Commission decided to extend the reply comment period by 12 days.

DATES: Reply comments are due on or before February 18, 2003.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. See Supplementary Information for filing instructions.

FOR FURTHER INFORMATION CONTACT: James Ball, Chief, or Lisa Choi, Senior Legal Advisor, Policy Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION:

1. On October 11, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) seeking comment from the public regarding possible reform of its International Settlements Policy, International Simple Resale and benchmarks policies, and the issue of foreign mobile termination rates. (*See* 67 FR 65527, October 25, 2002.)

2. On January 14, 2003, the Commission received comments from twenty parties on the issues under consideration in the NPRM. A substantial number of initial commenters are either foreign carriers or associations based in foreign countries. Therefore, recognizing the potential need of some of these commenters for additional time to ensure proper translations as well as the need for timely access to the initial comments through the Commission's Electronic Comment Filing System (ECFS), we extend the comment due date for replies regarding the NPRM, FCC 02–285, IB Docket Nos. 02–324 & 96–261, by 12 days to February 18, 2003 in order to afford all members of the public a full opportunity to comment on the issues raised in the initial comments. We find that the public interest will be served by this brief extension of the reply dates to allow for a more complete record in this proceeding.

3. Accordingly, pursuant to § 1.1 of the Commission's rules, 47 CFR 1.1, the new reply comment due date is February 18, 2003. Instructions for filing pleadings in this proceeding are set forth in the NPRM, available on the Commission's Web site at *http://www.fcc.gov.*

Federal Communications Commission:

James Ball,

Chief, Policy Division, International Bureau.

[FR Doc. 03–3137 Filed 2–7–03; 8:45 am]

BILLING CODE 6712–01–P

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), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: RSPA is considering alternatives for reducing safety risks associated with the transportation of flammable liquids in unprotected product piping (wetlines) on DOT specification cargo tank motor vehicles. In this notice, RSPA is soliciting comments and information regarding methods to reduce the risks posed by wetlines. In addition, we are seeking answers to questions to assist in determining whether further regulatory action is warranted. Regulatory amendments that may be promulgated as a result of comments to this notice will be developed jointly with the Federal Motor Carrier Safety Administration (FMCSA), which has primary enforcement authority for cargo tank motor vehicles and highway transportation.

DATES: Comments must be received by June 10, 2003.

ADDRESSES: *Written Comments:* Submit written comments to the Dockets Management System, U.S. Department of Transportation, Room PL. 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments should identify the docket number, RSPA–99–6223 (HM–213B), and be submitted in two copies. If you wish to receive confirmation that RSPA has received your comments, include a self-addressed stamped postcard. You may also submit comments via e-mail by accessing the Dockets Management System Web site at ''*http://dms.dot.gov*''. Click on ''Help & Information'' to obtain instructions for filing the document electronically. You may also send your comments by facsimile to (202) 366–3753.

The Docket Management System is located on the Plaza Level of the Nassif Building at the U.S. Department of Transportation at the above address. You may review public dockets between the hours of 9 a.m. and 5 p.m., Monday

through Friday, excluding Federal holidays. Internet users may review all comments on-line at the DOT Docket Management System Web site at ''*http://dms.dot.gov*''.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Stevens, Office of Hazardous Materials Standards, Research and Special Programs Administration, telephone (202) 366–8553; Mr. Philip Olson, Office of Hazardous Materials Technology, Research and Special Programs Administration, telephone (202) 366–4545; or Mr. Danny Shelton, Office of Safety and Technology; Federal Motor Carrier Safety Administration, telephone (202) 366–6121, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180), at § 173.33(e), prohibit the retention of certain liquid hazardous materials in the external product piping of a DOT specification cargo tank, unless the cargo tank motor vehicle is equipped with bottom damage protection devices. The bottom damage protection devices must meet the requirements of § 178.337–10 for the MC 331 specification; § 178.345–8(b) for DOT 400-series specifications; or the accident damage protection requirements of the specification under which any other cargo tank motor vehicle was manufactured. The current prohibition applies to liquid hazardous materials in Divisions 6.1 (toxic), 5.1 (oxidizer), 5.2 (organic peroxide), and Class 8 (corrosive to skin only). The prohibition does not apply to a residue that remains after the product piping is drained to the extent possible or to the retention of flammable liquids in product piping.

The Research and Special Programs Administration (RSPA; we) adopted the current requirements in final rules published under Docket No. HM–183, on June 12, 1989 (54 FR 24982) and September 7, 1990 (55 FR 37028). In the June 12, 1989 final rule, we amended the regulations to require accident damage protection devices on product piping containing liquid hazardous materials in Divisions 6.1 (toxic), 5.1 (oxidizer), 5.2 (organic peroxide), Classes 8 (corrosive to skin only), and 3 (flammable liquids), except for flammable liquid fuels transported in cargo tank motor vehicles equipped with meters for fuel tax purposes. These latter tanks were excluded because of the potential costs to modify the cargo tank motor vehicles and the apparent unavailability of a practical system to empty wetlines after bottom-loading. We also imposed limitations for the inside diameter and aggregate volume of all unprotected product piping on a cargo tank motor vehicle as a means to limit the quantity of lading retained in wetlines (54 FR 24987).

In the preamble of the June 12, 1989 final rule, we stated that bottom loading and unloading outlets on a cargo tank motor vehicle present an inherent risk that, if the outlets are damaged, the entire contents of the cargo tank may be released. To counteract this risk, we required product piping attached to the outlet valve to have a sacrificial device designed to break under accident loads. We also stated that during the 1980's, the petroleum industry chose to equip their cargo tanks with top vapor recovery systems and to bottom load as a means of complying with state implementation plans promulgated under the Clean Air Act. In implementing this system, the industry did not provide for draining or purging product from the cargo tank piping after it was bottom-loaded.

After publication of the June 12, 1989 final rule, we received hundreds of petitions for reconsideration. Several petitioners requested that we broaden the exception for flammable liquid fuels metered for fuel tax purposes to include all flammable liquids and certain other hazardous materials and to remove the quantity limitations for product retention in wetlines. Many of the concerns raised in these petitions, about the difficulties of removing product from loading lines or compliance with the accident damage protection requirements, had not been brought to our attention during the comment period for the NPRM or during any of the subsequent hearings or public meetings.

In the September 7, 1990 final rule that responded to the petitions for reconsideration, we amended the June 12, 1989 final rule to remove all of the adopted restrictions on transporting flammable liquids in wetlines. We realized that the petroleum industry needed additional time to implement design and operational changes before a prohibition against unprotected product piping could be adopted. We recognized the inherent difficulties in draining or purging product from the loading lines while maintaining an accurate metering system. However, we stated:

> We strongly encourage the petroleum industry to consider the risk it accepts in operating cargo tank motor vehicles over the highway with hazardous materials retained in the piping and that the hazardous materials industry consider and recommend possible alternatives to eliminate this risk in the most cost-effective manner.

We reiterated that the prohibition of lading in product piping was applicable only to DOT specification cargo tanks used to transport liquid hazardous materials. We also clarified that the prohibition in § 173.33(e) does not apply to cargo tank motor vehicles used to transport hazardous materials having relatively low hazards, such as combustible liquids, where the use of a specification cargo tank is not required. *See* 55 FR 37030.

On October 9, 1997, in Yonkers, New York a westbound MC 306 cargo tank motor vehicle containing 8,800 gallons of gasoline was struck broadside in the area of the piping manifold by a southbound passenger vehicle. The initial impact fractured the cargo tank's product piping and released approximately 28 gallons of gasoline. After surviving the initial impact, the 62-year-old operator of the passenger vehicle died from burns sustained in the fire that ignited immediately following the collision. Once ignited, the fire eventually spread and consumed the entire contents of the cargo tank, destroying both vehicles and a New York State Thruway overpass.

As part of the accident investigation, investigators from the National Transportation Safety Board (NTSB) reviewed data related to MC 306 cargo tank motor vehicles in the Hazardous Materials Information System (HMIS) for the period January 1990 through August 1997. NTSB identified 501 cargo tank motor vehicle accidents reported during this period; 47 involved external product piping incidents due to outside forces. Of those 47 incidents, 27 involved collisions with other motor vehicles, 16 involved trucks hitting stationary objects, and four involved overturned cargo tank motor vehicles. Fires occurred in five of the 47 product piping incidents, resulting in two deaths, three major injuries, and reported damage estimates of over $800,000.

NTSB issued its accident summary report on May 5, 1998. The NTSB report (H 98–27) is available in this docket and by visiting the NTSB Internet Web site. In its report, NTSB stated that the immediate result of the Yonkers collision was a fire inside and below the car and that the fuel for the initial fire was the gasoline released from the cargo tank's loading lines during impact. The fire was then fed by gasoline from the cargo tank's compartments. NTSB concluded that had the loading lines been empty, the fire likely would not have occurred. Based on its

investigation, the NTSB identified as a safety issue the danger of operating a truck when its cargo tank's unprotected loading lines are carrying hazardous materials. In its report, NTSB expressed particular concern about the severity of the Yonkers accident. As a result of its investigation, NTSB recommended (NTSB Recommendation H–98–27) that the Secretary of Transportation prohibit the carrying of hazardous materials in external product piping, such as loading lines, that may be vulnerable to damage in an accident.

On July 22, 1999, RSPA met with industry and trade representatives, at their request, to discuss the NTSB recommendation. Attendees included representatives from the American Petroleum Institute (API), Truck Trailer Manufacturers Association (TTMA), Petroleum Marketers Association of America (PMAA), National Tank Truck Carriers, Inc. (NTTC), Sigma, Sunoco, BP Amoco, and Marathon Ashland. Discussions focused on the cargo tank industry's development of alternative solutions for unprotected product piping. We indicated that we were aware of a purging system under development and invited industry to provide cost data or information on any other potential solutions.

On December 4, 2000, the Office of the Secretary of Transportation, General Counsel, on behalf of RSPA, submitted a significant NPRM to the Office of Management and Budget (OMB) for consideration. In the NPRM, we proposed to adopt a performance standard for substantially eliminating product from unprotected piping that could be met with current technology or by other innovative systems developed by industry.

The proposal required that all affected cargo tanks conform to the performance standard within seven years, allowing for two years of research and development, and, dependent upon the cargo tank's pressure test date, a maximum of five years for retrofits to achieve compliance.

The proposed rule provided an exception for truck-mounted tanks, based on inherent safety features, significantly reducing compliance costs to small businesses. The Petroleum Marketers Association of America (PMAA), a federation of 42 state and regional trade associations, represents 7,850 small, independent petroleum marketers that sell nearly half the gasoline consumed in this country. In a May 23, 2000 letter, PMAA suggested that straight trucks should not be included in any proposed rulemaking because it was unaware of any wetlines-related fatalities involving straight trucks. The PMAA supported its suggestion by noting that the general design and construction of straight trucks is such that the placement of external product piping is afforded protection by the frame of the truck, the meter box and tool boxes. (The PMAA letter is in the docket for this rulemaking.)

On January 22, 2001, the NPRM was withdrawn for review by the current administration in accordance with a White House Chief of Staff directive. After review by the Secretary of Transportation, the NPRM was resubmitted to OMB for consideration.

On August 10, 2001, OMB returned the NPRM to the Department for reconsideration. In its return letter, OMB expressed concern with the methodology used to determine benefits and the true costs required to achieve them. First, regarding the retrofit of existing cargo tank motor vehicles, OMB was concerned that RSPA was engaging in a ''risk-risk'' tradeoff, that is, the increase in risk to install (*i.e.*, welding) a system to eliminate wetlines outweighed the benefits realized in lives saved on public highways. Second, OMB questioned whether some or all of the reported fatalities in the NPRM were the result of causes unrelated to wetlines (*e.g.*, blunt force trauma). Third, OMB questioned why RSPA would extrapolate the number of fatalities and injuries multiplied by a factor of 1.5 due to suspected under-reporting of incidents involving wetlines. OMB cited RSPA's ''Preliminary Assessment of Risk/Benefit-Cost,'' dated January 25, 1999, as stating that this increase in benefits might overstate the risks but was necessary when considering any rulemaking action. (This document is available for review at the RSPA Hazardous Materials Safety Web site, *http://hazmat.dot.gov/risk_analyses.htm*, and the DOT Docket Management System Web site, *http://dms.dot.gov*.) Finally, OMB did, however, indicate support for the prohibition of wetlines on newly constructed cargo tank motor vehicles based on the proposal's greater net benefits to society. (The August 16, 2001 OMB letter is in the docket for this rulemaking.)

It is because of these and other uncertainties with regard to cost vs. benefit and new construction vs. retrofit that we have chosen to issue an advance notice of proposed rulemaking. It is our intent to take a ''fresh look'' at this issue by soliciting comments on the narrative discussion and answers to the questions posed in Section V of this notice.

II. Fatal Accidents Attributed to Wetlines

The unprotected product piping on a five-compartment cargo tank motor vehicle carrying gasoline typically contains 30–50 gallons of gasoline. If a passenger vehicle strikes the side of a cargo tank motor vehicle, the impact likely will fracture the wetlines. In such collisions, the passenger vehicle is often wedged under the cargo tank motor vehicle. With the automobile driver and passenger(s) trapped in the vehicle under the cargo tank and the fractured product piping releasing 30–50 gallons of gasoline, the gasoline spills onto, underneath, or into the passenger vehicle. If ignited, fire rapidly engulfs the driver and passenger(s) inside their vehicle. When ignited, a gasoline spill of 50 gallons will be fatal to persons within a zone of approximately 41 feet, dooming those trapped in a vehicle at the site of the release and fire. If the fire is not extinguished immediately, it may spread from the gasoline originally contained in the product piping to the gasoline contained in the cargo tank motor vehicle. In this instance, the safety threat to the surrounding community is significant.

Since 1992, there have been seven reported accidents, resulting in eight fatalities, where wetlines were damaged and gasoline released. These fatal accidents primarily involve collisions with passenger vehicles. Our experience with the HMIS indicates that there is a degree of under-reporting of hazardous materials transportation accidents of all types. In addition, prior to October 1, 1998, certain intrastate highway carriers were not required to report hazardous materials releases to RSPA. Therefore, the HMIS data probably do not include all accidents involving damage to wetlines on cargo tank motor vehicles.

In this section, we describe a sampling of five fatal wetlines accidents. These descriptions provide an indication of the nature of the safety problem and its possible consequences. In these five accidents, six fatalities appear to have resulted from fires that ignited after passenger vehicles struck wetlines that then released gasoline.

Long Beach, CA (one fatality). On November 22, 1992, in Long Beach, California, a passenger vehicle struck a cargo tank motor vehicle on the right side and ruptured the unprotected product piping. Approximately 26 gallons of gasoline and diesel fuel were released and ignited immediately. The driver of the passenger vehicle died in the accident.

Houston, TX (one fatality). On October 1, 1994, in Houston, Texas, the

driver of a passenger vehicle died after his westbound vehicle struck a northbound cargo tank motor vehicle broadside and the product piping sheared off the cargo tank and released 38 gallons of gasoline. A fire broke out. The driver was trapped inside the vehicle wedged under the cargo tank and died in the automobile.

Yonkers, NY (one fatality). On October 9, 1997, in Yonkers, New York, a passenger vehicle struck a cargo tank motor vehicle in the area of the external loading and unloading lines, fracturing the cargo tank's product piping and releasing approximately 28 gallons of gasoline. After surviving the initial impact of the collision, the 62-year old driver of the passenger vehicle died from burns and smoke inhalation from the fire that ignited immediately.

Hammond, IN (two fatalities). On November 12, 1999, in Hammond, Indiana, the 21-year old driver of a passenger vehicle and a four-year old passenger died from burns sustained in a fire that ignited immediately following the collision of their vehicle with a cargo tank motor vehicle. The passenger vehicle struck the cargo tank in the area of the piping manifold releasing the gasoline contained in the product piping. Both vehicles were destroyed by the fire that subsequently spread from the product piping and consumed the entire contents of the cargo tank.

Detroit, MI (one fatality). On July 11, 2001, near Detroit, Michigan, an out of control automobile crashed into a highway barrier and then collided with the underside of a cargo tank motor vehicle. The trapped automobile driver died as a result of the ignition of approximately 50 gallons of gasoline.

III. Alternatives for Addressing Safety Risk

In 1994, the American Petroleum Institute (API) initiated a two-phased study to assess the risks posed by petroleum products in unprotected product piping. Phase I of the study, titled *Alternative Means of Loading Cargo Tank Motor Vehicles*, analyzed the risks posed by the existing industry practice. This phase was completed in February 1994 and concluded:

> There is a small but definable risk to the public from a wet line spill. * * *the consequences can be more severe for the occupants of an automobile that impacts and fractures the wet lines and ignites the wet line contents. The majority of reported wet line spills are under 20 gallons. For this spill size of 20 gallons, the calculated maximum injury radius is 36 feet.

Phase II of the study was to identify engineering designs that would have the potential for eliminating wetlines or provide collision protection to reduce or eliminate the risk. Because Phase I of the study concluded that the probability of a fatality being directly attributed to wetlines is ''quite low,'' the second phase of the study was not considered. In its Executive Summary API stated, ''Based on the information gathered, the fatality rate from wetline spills is one for every 1.8×10^{10} miles traveled, or one fatality every eleven years.'' It also noted that additional information indicated the fatality rate could be considerably higher. In fact, this information indicated that ''the fatality rate for these conditions is one for every 1.1×10^{9} miles'' traveled, or 0.7 fatalities per year.

We are aware of two systems that have been demonstrated to reduce risks from wetlines. The first is an onboard system that evacuates the wetlines by forcing the lading out of the product piping and into the cargo tank body. After loading is complete and the main cargo compartment valves are closed, the system introduces compressed air from an auxiliary tank into the product piping under low pressure and at a low flow rate. Lading in the product piping flows through separate purging lines into the cargo tank body. This purging process is controlled automatically and lasts approximately six minutes. The system is also capable of detecting and automatically purging any leakage of product through the cargo tank's internal shutoff valve into the product piping, thereby eliminating a potential wetline condition during transportation. For an average cargo tank motor vehicle, the weight increase for a manual purging system is approximately 48 pounds.

The second system involves adding a set of short lines for loading that are independent of the unloading lines. These short loading lines, placed on the lower part of the cargo tank, are accessible and are not exposed to damage in case of rollover. Each short four-inch inside diameter pipe extends from the cargo tank wall and contains approximately one gallon of hazardous material; depending on the number of compartments on the cargo tank motor vehicle, the short line piping system on the vehicle could contain 4–5 gallons of hazardous material rather than the 30 to 50 gallons contained in a typical product piping system. For an average cargo tank motor vehicle, the weight increase for the short external product piping option is approximately 50 pounds.

For a system using separate loading lines, it may be feasible to recess the loading connections into the interior cargo tank body so that the surface of the loading inlet is flush with the cargo tank wall. This option may be preferred by cargo tank manufacturers and owners because it eliminates the need to ensure that external product piping is designed and positioned so as to protect the integrity of the cargo tank wall in the event of an accident. Recessing of loading inlets within the cargo tank wall would be expected to eliminate the risks posed by external product piping and could be designed to meet the appropriate accident damage protection requirements. At the present time, however, this option may be unrealistic because substantial modifications to existing loading racks would be necessary or loading times would increase due to the cargo tank being moved to reach loading arms. In addition, there are questions about the effectiveness of such a design and whether it might adversely impact the structural integrity of the cargo tank.

We understand that one major oil company, representing less than one percent of the potentially affected cargo tank population, has chosen to outfit its fleet with a system that purges product from unprotected external piping. Two additional carriers installed the same purging system on a small portion of their fleets as part of a successful field evaluation and expressed interest in equipping their entire fleets. However, these carriers have chosen to defer installation pending possible RSPA rulemaking.

There may also be other ways to reduce wetlines risk. For example, many of the incidents of which we are aware appear to be caused because automobile drivers do not see the cargo tank motor vehicle. Perhaps marking or other systems that increase vehicle conspicuity could be effective in reducing collisions between cargo tank motor vehicles and automobiles.

Further, we are aware that at least one cargo tank operator has installed under-ride protection on its cargo tank motor vehicles. Although this protection may not meet the bottom damage protection requirements under § 178.345–8(b), we invite comments on whether this may or may not substantially reduce the risks posed by unprotected product piping.

IV. Costs and Benefits of Risk Reduction Measures

It is our understanding that the useful life of a cargo tank motor vehicle is at least 20 years. However, we are aware that many cargo tank motor vehicles may remain in service for up to 30 years. Based on information in the U.S. Census Bureau's 1997 *Vehicle Inventory and Use Survey (VIUS),* it appears that the average annual population of cargo

tank motor vehicles that would be affected by any rulemaking action is approximately 63,000. This number includes bottom-loaded single-unit trucks, straight trucks pulling trailers, and truck-tractors pulling trailers in flammable liquid service. Cargo tank motor vehicles average four compartments each, with piping that contains an aggregate total of approximately 40 gallons of product.

As previously discussed, we are aware of two systems that may reduce risk from wetlines. A manual onboard purging system can be installed on a newly constructed cargo tank motor vehicle for about $2,100 (welded) or $2,250 (non-welded) (2002 dollars). Equipment and installation costs are the same for the retrofit of existing cargo tank motor vehicles; however, additional costs in the form of lost profit or installation risk may be incurred. The independent short loading line system can be installed for $1,540 per cargo tank motor vehicle (2002 dollars). Because of the complexity of such a design, however, it may not be appropriate for the retrofit of existing cargo tank motor vehicles. We invite comments on the feasibility of retrofits of existing vehicles to reduce or eliminate product in wetlines and on costs that may be associated with such a retrofit.

We believe there may be other cost-effective solutions that could significantly reduce or eliminate the current level of risk. We encourage commenters to identify other possible approaches to reducing or eliminating the risks posed by the transportation of flammable liquids in wetlines.

Quantified and monetized benefits realized from action to reduce the transportation risks associated with wetlines would be in the form of reductions in fatalities, major and minor injuries, product losses, carrier damages, public and private property damages, risks to emergency responders, decontamination and cleanup costs, and evacuation costs. Through the HMIS database and information provided by the NTSB, we identified 194 reported incident cases involving wetlines during the period of 1990–2001. As previously discussed, we are aware of at least six fatalities as a result of five of those incidents where piping was damaged and gasoline released.

In addition to quantified/monetized benefits, measures to reduce wetlines risks would reduce losses by the private sector (in terms of time and productivity), by government (in terms of allocation of scarce resources, including emergency responders, their support vehicles and equipment), and by the general public (in terms of time and inconvenience). Some elements of actual and potential losses are: (1) The closure of transportation arteries; (2) the evacuation of homes, businesses and other facilities that are in harm's way; and (3) productivity losses in terms of facility and/or personnel down time attributed to traffic delays and/or facility evacuations.

V. Questions for Commenters

In general, we seek comments to determine whether regulatory changes are needed and can be made in a cost-effective manner. In particular, we invite commenters to respond to the following questions:

A. General

1. Are the statistics and data (*e.g.*, cargo tank population, useful life of a cargo tank, accident frequency and consequences), costs (*e.g.*, purging system, short-loading lines, new construction, retrofit), and potential benefits (*e.g.*, fatalities, injuries, and property damages prevented) provided in this ANPRM accurate?

2. What is the useful life of a cargo tank motor vehicle utilized for the transportation of flammable liquids?

3. What percentage of cargo tank motor vehicles are operated at maximum weight limits such that any additional weight of a system to eliminate wetlines would impose a weight penalty?

4. For cargo tank motor vehicles in flammable liquid service, what is the average distance per trip?

5. In addition to the potential benefits described in this ANPRM, are there additional benefits, measurable or otherwise, that would result from implementation of measures to reduce wetlines risks?

6. Should a benefit-cost analysis include the reduction of risks associated with low-frequency, high-consequence events?

7. Would requirements for systems to reduce the risk posed by wetlines for all newly constructed cargo tank motor vehicles result in significant reductions in per unit cost because of economies of scale?

B. Current Market Practices

1. What safety practices, other than those described in this ANPRM, are motor carriers currently utilizing to reduce the risks associated with the transportation of flammable liquids in wetlines?

2. How effective are these safety practices in reducing the risks associated with wetlines on cargo tanks?

3. What are the costs of these safety practices currently utilized?

4. Would an industry or industry/government sponsored research initiative to explore new methods to eliminate wetlines be of value?

5. If so, what would be the value of such a partnership?

C. Facility Modification

1. Concerning the short and recessed loading lines systems described in this ANPRM, what modifications to loading arms or hoses at existing loading racks would be necessary to accommodate short, including recessed within the cargo tank wall, loading lines?

2. What would be the cost of these modifications?

3. Can loading rack fuel tax accounting systems be modified to allow for product reversal once the cargo tank is full and the internal valves are closed, thus draining the loading lines?

4. Is this option viable?

5. What would such a modification cost?

D. Alternatives

Independent Loading Lines

1. Are the short and recessed loading lines options practicable for installation on new cargo tank motor vehicles?

2. Are either of these options practicable for installation on existing cargo tank motor vehicles (*i.e.*, retrofit)?

3. Are there any motor carriers actively operating or contemplating operating cargo tank motor vehicles with such a design?

4. If so, what configuration was utilized and what was the cost to modify the cargo tank?

5. Would maintaining a vehicle with such a design (*i.e.*, independent loading lines) result in higher or lower costs than currently utilized designs?

Purging System

1. How effective is a purging system in reducing the risks posed by wetlines?

2. Is a purging system practicable for installation on new cargo tank motor vehicles?

3. Is a purging system practicable for installation on existing cargo tank motor vehicles (*i.e.*, retrofit)?

4. Are there any motor carriers actively operating or contemplating operating cargo tank motor vehicles with a purging system?

5. If so, what configuration is utilized (automatic, manual, other) and what was the cost to modify the cargo tank?

6. What are the costs to maintain a cargo tank motor vehicle with a purging system installed?

Conspicuity

1. Would improved conspicuity for cargo tank motor vehicles generally, or wetlines in particular, reduce wetlines risks?

2. How effective would improved conspicuity be?

3. Are there marking or lighting systems currently available that could improve the visibility of cargo tank motor vehicles or components of those vehicles to other drivers?

Accident Damage Protection

1. Are there cost-effective designs for accident damage or under-ride protection (*e.g.*, guards), specification or otherwise, that would reduce the risks posed by unprotected product piping?

2. What would these designs cost?

3. What level of protection (*i.e.*, impact forces sustained) would be both cost-effective and provide a significant reduction in risks associated with wetlines?

Non-Regulatory

Would a non-regulatory approach, such as an awareness campaign to alert the public as to the hazards posed by wetlines, be successful in helping to reduce the risks posed by wetlines?

Other

1. In addition to the purging and short-line systems described in this ANPRM, are there other systems currently being marketed or in development that can evacuate wetlines after loading or prevent wetlines from retaining liquid during loading operations?

2. What are the costs or projected costs of such systems?

3. How effective are they?

4. How close to implementation are systems currently in the development phase?

5. Are there other concepts, either related to vehicles or facilities, that might have application in reducing the risks posed by wetlines?

VI. Regulatory Notices

There are a number of additional issues that we must address in determining whether to proceed with any rulemaking action. These include the analyses required under the following statutes and Executive Orders:

A. Executive Order 12866: Regulatory Planning and Review

This rulemaking is considered a significant regulatory action under section 3(f) of Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11032). This ANPRM was reviewed by the Office of Management and Budget.

E.O. 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits that may be associated with regulatory measures to reduce the safety risks associated with transportation of flammable liquids in wetlines. We would also be interested in comments on the several issues relating to the measurement of costs and benefits and the treatment of newly constructed as opposed to retrofitted cargo tank motor vehicles raised in the OMB Return Letter (discussed in Section I of this notice). To the extent feasible systems may be available to achieve compliance with a proposal to reduce wetlines risks, we invite commenters to discuss the effectiveness of such systems and to provide estimates of the unit cost of new construction and the unit cost to retrofit a cargo tank motor vehicle in the existing fleet. Alternatively, if there are feasible means to comply with a proposal by modifying equipment or procedures at the loading facility, interested parties are invited to provide comments on their cost and effectiveness.

B. Executive Order 13132: Federalism

E.O. 13132 requires agencies to assure meaningful and timely input by state and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. We invite State and local governments with an interest in this rulemaking to comment on the effect that regulatory measures to reduce wetlines risks may have on State or local safety or environmental protection programs.

C. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

E.O. 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. We invite Indian tribal governments to provide comments as to the effect that regulatory measures to reduce wetlines risks may have on Indian communities.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires each agency to review regulations and assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. Interested parties are invited to comment on estimates of the costs and benefits of rulemaking scenarios that would reduce wetlines risks, including any impact on small businesses.

E. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) requires that Federal agencies consider the consequences of major Federal actions and that they prepare a detailed statement on actions significantly affecting the quality of the human environment. Interested parties are invited to review the Environmental Assessment available in the docket at *http://dms.dot.gov,* and to comment on what environmental impact, if any, a regulatory proposal to reduce wetlines risks would have.

F. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

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Robert McGuire,

Associate Administrator for Hazardous Materials Safety.

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