

§ 130.11

in transportation subject to part 130 (alone or in conjunction with an equally qualified alternate), must be fluent in English, and must have in his or her possession documentation of the required authority.

Response activities means the containment and removal of oil from navigable waters and adjoining shorelines, the temporary storage and disposal of recovered oil, or the taking of other actions as necessary to minimize or mitigate damage to the environment.

Response plan means a basic oil spill response plan meeting requirements of subpart B of this part or a comprehensive oil spill response plan meeting requirements of subpart C of this part. For comprehensive plans in subpart C, this definition includes both the railroad's core plan and the response zone appendices, for responding, to the maximum extent practicable, to a worst-case discharge of oil or the substantial threat of such a discharge.

Response zone means a geographic area along applicable rail route(s), containing one or more adjacent route segments for which the railroad is required to plan for the deployment of, and provide, spill response capabilities meeting the planning requirements of § 130.130. The size, locations, and boundaries of the zone are determined and identified by the railroad after considering the existing location and organizational structure of each railroad's incident management team (IMT), including the availability and capability of response resources.

Transports or Transportation means any movement of oil by highway or rail, and any loading, unloading, or storage incidental thereto.

Vegetable oil means a non-petroleum oil or fat derived from plant seeds, nuts, kernels or fruits, not specifically identified elsewhere in this part.

Worst-case discharge means "the largest foreseeable discharge in adverse weather conditions," as defined at 33 U.S.C. 1321(a)(24). The largest foreseeable discharge includes discharges resulting from fire or explosion. The worst-case discharge from a unit train consist is the greater of:

(1) 300,000 gallons of liquid petroleum oil; or

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(2) 15 percent of the total lading of liquid petroleum oil transported within the largest unit train consist reasonably expected to transport liquid petroleum oil in a given response zone. The worst-case discharge calculated from tank cars exceeding 42,000 gallons is equal to the capacity of the cargo container.

[Amdt. 130-2, 61 FR 30541, June 17, 1996, as amended by 66 FR 45378, Aug. 28, 2001; 67 FR 61011, Sept. 27, 2002; 69 FR 18803, Apr. 9, 2004; 84 FR 6947, Feb. 28, 2019]

§ 130.11 Communication requirements.

(a) No person may offer oil subject to this part for transportation unless that person provides the person accepting the oil for transportation a document indicating the shipment contains oil.

(b) No person may transport oil subject to this part unless a readily available document indicating that the shipment contains oil is in the possession of the transport vehicle operator during transportation.

(c) A material subject to the requirements of this part need not be specifically identified as oil when the shipment document accurately describes the material as: aviation fuel, diesel fuel, fuel oil, gasoline, jet fuel, kerosene, motor fuel, or petroleum.

§ 130.21 Packaging requirements.

Each packaging used for the transportation of oil subject to this part must be designed, constructed, maintained, closed, and loaded so that, under conditions normally incident to transportation, there will be no release of oil to the environment.

§§ 130.22–130.29 [Reserved]

Subpart B—Basic Spill Response Plans

§ 130.31 Basic spill response plans.

(a) No person may transport liquid petroleum oil in a packaging having a capacity of 3,500 gallons or more unless that person has a current basic written plan that:

(1) Sets forth the manner of response to discharges that may occur during transportation;

(2) Takes into account the maximum potential discharge of the contents from the packaging;

(3) Identifies private personnel and equipment available to respond to a discharge;

(4) Identifies the appropriate persons and agencies (including their telephone numbers) to be contacted in regard to such a discharge and its handling, including the National Response Center; and

(5) For each motor carrier, is retained on file at that person's principal place of business and at each location where dispatching of motor vehicles occurs; and for each railroad, is retained on file at that person's principal place of business and at the dispatcher's office.

(b) A railroad with a comprehensive plan in conformance with the requirements of subpart C of this part is not required to have a basic spill response plan for routes covered by the comprehensive plan.

(Approved by the Office of Management and Budget under control number 2137-0591)

[Amdt. 130-2, 61 FR 30541, June 17, 1996, as amended at 72 FR 55683, Oct. 1, 2007; 76 FR 56311, Sept. 13, 2011; 84 FR 6948, Feb. 28, 2019]

§ 130.33 Basic response plan implementation.

If, during transportation of oil subject to this part, a discharge occurs—into or on the navigable waters of the United States; on the adjoining shorelines to the navigable waters; or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States—the person transporting the oil shall implement the plan required by §130.31, in a manner consistent with the National Contingency Plan, 40 CFR part 300, or as otherwise directed by the Federal on-scene coordinator.

§§ 130.34—130.99 [Reserved]

Subpart C—Comprehensive Oil Spill Response Plans

SOURCE: 84 FR 6948, Feb. 28, 2019, unless otherwise noted.

§ 130.100 Applicability of comprehensive oil spill response plans.

(a) Railroads must have current, written comprehensive oil spill response plans (COSRPs) meeting the requirements of this subpart for any route or route segments used to transport either of the following:

(1) Any liquid petroleum oil or other non-petroleum oil subject to this part in a quantity greater than 42,000 gallons (1,000 barrels) per packaging; or

(2) A single train carrying 20 or more loaded tank cars of liquid petroleum oil in a continuous block or a single train carrying 35 or more loaded tank cars of liquid petroleum oil throughout the train consist.

(i) Tank cars carrying liquid petroleum oil products not meeting the criteria for Class 3 flammable or combustible material in §173.120 of this chapter, or containing residue as defined in §171.8 of this chapter, are not required to be included when determining the number of tank cars transporting liquid petroleum oil in paragraph (a)(2) of this section.

(ii) [Reserved]

(b) The requirements of this subpart do not apply if the oil being transported is otherwise excepted per §130.2(c).

(c) A railroad required to develop a response plan in accordance with this section may not transport applicable quantities of oil (including handling and storage incidental to transport) unless—

(1) The response plan is submitted, reviewed, and approved as required by §130.150 except as described in paragraph (d) of this section; and

(2) The railroad is operating in compliance with the response plan.

(d) A railroad required to develop a response plan in accordance with this section may continue to transport oil without an approval from PHMSA provided that all of the following criteria are met:

(1) The railroad submitted a plan in accordance with the requirements of §130.150(a) within the previous two years;

(2) The submitted plan includes the certification in §130.130;

(3) The railroad is operating in compliance with the submitted plan; and