

In addition, EPA is proposing approval of certain other deletion and renumbering of APEN requirements. The provisions (using the numbering from the EPA-approved SIP, effective February 21, 1997) that are proposed for deletion are: II.B.8., II.B.10., and II.D.4.b. Deletion of the exemptions in II.D.4.b. makes the SIP more stringent, and deletion of the other provisions does not impact APEN requirements and exemptions, nor any other SIP provisions. EPA therefore proposes to approve these deletions. EPA's proposed approval of the renumbering of APEN requirements will be for the entirety of the language and their new location in Section I.B. The provision references, before the renumbering, were: II.B.5. and II.B. 9. The references, after the renumbering, are, respectively: I.B.43 and I.B.16. The renumbering of these provisions does not impact APEN requirements and exemptions, nor any other SIP provisions.

As indicated in the Background section of this action, for each of the APEN provisions in Regulation Number 3, Part A, Sections II.A. through II.D., EPA's TSD identifies the cumulative revisions (if any) submitted by the State between 1997 and 2007, provides its assessment of the revisions within the regulatory context referenced earlier in this action, and indicates EPA's proposed action (approval, no action, or disapproval.)

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 13, 2011.

Carol Rushin,

Acting Regional Administrator, Region 8.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 174

[Docket No. FRA-2011-0004]

Hazardous Materials: Improving the Safety of Railroad Transportation of Hazardous Materials

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces that FRA has scheduled a public meeting in Washington, DC, to discuss its process of issuing movement approvals pursuant to Title 49 Code of Federal Regulations (CFR) 174.50. In an effort to continually improve this aspect of its safety program, FRA is undertaking a comprehensive review of its process of issuing movement approvals, and through this public meeting seeks to gain input from all persons and stakeholders affected or interested in this aspect of FRA's hazardous materials program.

DATES: The public meeting will be held on Tuesday, February 22, 2011, starting at 1 p.m.

ADDRESSES: The public meeting will be held at the DOT Conference Center, located at 1200 New Jersey Avenue, SE., Washington, DC 20590 in the Oklahoma Conference Room (Rooms A-B-C).

Oral Presentations: In order to ensure all interested parties are provided ample opportunity to speak at the meeting, any person wishing to present an oral statement should notify Mr. Karl Alexy, P.E., Engineer—Hazardous Materials, FRA Office of Safety Assurance and Compliance, at least 4 business days before the date of the public meeting. Mr. Alexy can be reached by e-mail at Karl.Alexy@dot.gov or by phone at (202) 493-6245. For information on facilities or services for persons with disabilities, or to request special assistance at the meeting, contact Mr. Alexy as soon as possible.

FRA will make a teleconference line available for any interested party who wishes to attend the meeting by phone. Any interested party desiring to attend the meeting by phone should contact Mr. Alexy as soon as possible.

Written Comments: We invite interested parties who are unable to attend the meeting, or who otherwise desire to submit written comments or data, to submit any relevant information, data, or comments to the above-referenced docket (FRA-2011-

0004). Written comments may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Comments submitted by March 24, 2011, will be considered by FRA. Comments submitted after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Engineer—Hazardous Materials Division, at (202) 493-6245 or Karl.Alexy@dot.gov; or William Schoonover, Staff Director, Hazardous Materials Division, at (202) 493-6229 or William.Schoonover@dot.gov, FRA Office of Safety Assurance and Compliance.

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR 174.50, FRA has the authority to approve the rail movement of bulk hazardous materials packages that do not conform to the hazardous materials regulations (HMR; 49 CFR parts 171-180). The genesis of 49 CFR 174.50 was the 1996 consolidation of various regulatory provisions that prohibited railroads from forwarding damaged packages, leaking tank cars (except for necessary short moves), or any tank car found in noncompliance with the HMR, except under the terms of a DOT

exemption (now referred to as a DOT “special permit”). In consolidating these regulatory provisions and authorizing FRA’s Associate Administrator for Railroad Safety/Chief Safety Officer to approve the movements of nonconforming packages by rail, the stated goal of the Research and Special Programs Administration (the Pipeline and Hazardous Materials Safety Administration’s predecessor agency) was to make clear that the movement of packages that do not conform to the HMR was prohibited, but at the same time, provide a method to allow bulk packages (including tank cars) that no longer meet their packaging specifications to be moved safely by rail when necessary to effect corrective actions and repairs. See 60 FR 65,492 and 65,495 (December 19, 1995); 61 FR 28,666 and 28,669 (June 5, 1996); and 65 FR 50,450 and 50,455 (August 18, 2000).

The number of movement approvals issued by FRA over the last several years has steadily increased. FRA issued 380 movement approvals in calendar year (CY) 2007, 444 in CY 2008, 645 in CY 2009, and 906 in CY 2010. Movement approvals have been issued for such nonconformances as service equipment, tank shell, or lining failures; overloaded packagings; jacket, tank car shell, or head damage; stub sill weld cracks; failures of heater coils or thermal protection systems; tank cars overdue for required tests; and other reasons. Significant information on the movement approval process can be found on FRA’s Web site at <http://www.fra.dot.gov/downloads/safety/OTMAapprovalrequest1010.pdf>.

As part of FRA’s ongoing regulatory review efforts, and given the increasing number of movement approvals FRA has issued over the last several years, FRA believes a comprehensive review of its process will ensure the continued efficient handling of movement approval requests, while at the same time, ensuring that all relevant safety aspects of such requests are adequately considered. FRA encourages all interested persons to participate in this meeting, either in person at the address noted above or via telephone. We encourage participants (wishing to make oral statements) to plan on attending the entire meeting, since FRA may not be able to accommodate competing demands to appear at specific times. A transcript of the meeting will be made available to meeting participants and the public through the above-referenced docket (FRA-2011-0004).

Privacy: Anyone is able to search 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 665, Number 70, Pages 19477-78) or at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on January 19, 2011.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

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