

205174

43

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005
202-682-8185



RSPA-1987-13550-1104

V. Kenneth Leonard
Transportation Director

NOV 30 1987
Re: Docket HM-200

87 NOV 30 PM 4:52

Alan I. Roberts, Director
Office of Hazardous Materials
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Roberts:

The American Petroleum Institute (API) is pleased to provide comments in response to the U.S. Department of Transportation's (DOT) advance notice of proposed rulemaking to extend the application of the Hazardous Materials Regulations (HMR), 49 CFR Parts 171 through 179, to all intrastate transportation of hazardous materials.

API supports the extension of the federal regulations to intrastate transportation of hazardous materials. The promotion of national regulatory uniformity and transportation safety are the two principal reasons cited by DOT for proposing such an extension. API believes that this action is long overdue and in concert with other recent government actions at the federal and state level to bring regulatory consistency and a greater degree of safety to our hazardous materials transportation system. These recent actions, which API fully supports, include the requirements that a driver have a single commercial driver's license, the proposed elimination of the commercial exemption zone around cities; the establishment of training and testing standards for commercial motor vehicle operators; and DOT's review of all state and local motor vehicle laws and regulations to ensure that they do not conflict with federal requirements.

Since the HMR already apply to all hazardous materials transported in commerce by railcar, aircraft and vessel, and to intrastate carriage of hazardous wastes, hazardous substances and flammable cryogenic liquids in portable and cargo tanks, the proposed extension brings a greater degree of uniformity to transportation regulations.

The extension of the HMR to intrastate shippers and carriers will require a certain implementation period to accomodate education of and compliance by intrastate businesses. The length of the implementation period should be closely coordinated with those states that already have adopted the HMR. Coordination and consultation should help

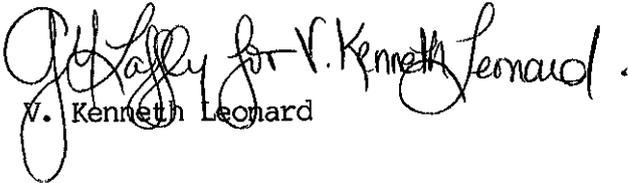
ensure that the timetable selected for this rulemaking will encourage compliance and have minimal economic impact on intrastate entities, especially small businesses. In this respect, API believes that when DOT issues a notice of proposed rulemaking in this docket, every effort should be made to determine the number of intrastate businesses that may be impacted by the proposed extension of federal regulations on intrastate commerce. In particular, DOT should try to determine the number, type and age of containers that will not meet the proposed DOT specifications standards. Lacking this data, it virtually is impossible to estimate what, if any, impact this rulemaking will have on intrastate commerce.

The HMR communications requirements (shipping papers, markings, placarding, and labeling) will require the shortest implementation period and will have less of an economic impact on intrastate businesses than the HMR equipment requirements. Implementation of the HMR equipment specifications and packaging requirements, also, will take longer given the capital investment necessary to bring non-specification equipment up to federal standards or to purchase replacement specification equipment.

In response to the specific questions posed by DOT in the advance notice concerning equipment standards, API recommends that DOT propose a gradual phaseout of older, non-DOT specification equipment. As part of this phaseout, DOT could propose that equipment manufactured before a certain date be grandfathered under the regulations and allowed to remain in service until a specific date in the future. A grandfather period and final compliance date would permit owners of non-DOT specification equipment to operate existing non-complying equipment for a limited period of time without incurring substantial economic hardship. Lacking information concerning the number and age on non-complying container equipment, it is difficult for API to recommend a reasonable period of time during which non-specification equipment could be permitted to operate. We recommend, however, that a phaseout date for non-specification equipment be proposed to encourage eventual replacement of non-specification equipment.

API appreciates the opportunity to comment on this advance notice of proposed rulemaking. We encourage DOT to issue a notice of proposed rulemaking to determine the population of intrastate businesses that will be affected by the proposal, as well as to take a census of equipment that does not comply with the HMR.

Sincerely,


V. Kenneth Leonard

Delivered in Quintuplicate