



Dangerous Goods Advisory Council

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May 24, 2012

Dr. Magdy El-Sibaie
Associate Administrator for Hazardous Materials Safety, PHH-1
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave., SE
East Building, E21-306
Washington, DC 20590

Re: Petition for Rulemaking; Hazardous Materials Transportation, Removal of Packing Group Entries for Organic Peroxides, Self-Reactive Substances and Explosives

Dear Dr. El-Sibaie:

The Dangerous Goods Advisory Council (DGAC), in accordance with §106.95 of the Hazardous Materials Regulations (HMR), hereby petitions for amendment of the §172.101 Hazardous Materials Table by removing the "II" in Column 5 of the Table from all explosive (Class 1), self-reactive substance (Division 4.1) and organic peroxide (Division 5.2) entries.

INTRODUCTION

Dangerous Goods Advisory Council (DGAC) is an international, non-profit educational organization that promotes safe and efficient transportation of hazardous materials in domestic and international commerce. DGAC membership represents virtually all sectors of the hazmat transportation industry including shippers of all types, carriers of all modes, and providers of related goods and services such as packages, labels, warehousing, freight forwarding, consulting, training and numerous trade associations. We provide classroom training, webinars and conferences, and actively participate in U.S. and international regulatory activities to further the objectives of safe and efficient transportation of dangerous goods/hazardous materials in commerce. DGAC has Observer status at the United Nations *Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals* (UNCOE), Advisory status at the *International Civil Aviation Organization* (ICAO), and Consultative status at the *International Maritime Organization* (IMO). More information on DGAC is available at www.DGAC.org.

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We are submitting this petition on behalf of our members who have experienced countless unnecessary interruptions in the transportation of their products based on the confusion caused by the matter that is the subject of this petition.

BACKGROUND AND JUSTIFICATION

Column 5 of the §172.101 Hazardous Materials Table provides the packing group assigned to proper shipping name entries. The description of Column 5 in §172.101(f) states:

“Packing Groups I, II and III indicate the degree of danger presented by the material is either great, medium or minor, respectively.”

Under both the HMR and international regulations, explosives, self-reactive substances and organic peroxides are not assigned a degree of danger by means of packing groups. Yet, entries for these materials all indicate Packing Group “II” in Column 5 of the Hazardous Materials Table. It is the experience of DGAC members that the presence of the “II” in Column 5 for these entries is a constant source of confusion and often leads to frustration of hazmat shipments. Considering that frustration of shipments contributes to increased risk in transportation, the confusion caused, in effect, reduces the overall safety of the hazardous material in transportation.

Frustration typically comes about when shipping papers are checked for compliance by carrier staff and enforcement personnel along the transport chain. Shipping paper requirements on the required hazardous materials description, in §172.202(a)(4), require:

“The packing group in Roman numerals, as designated for the hazardous material in Column (5) of the §172.101 table.”

While the text in this regulation also acknowledges that explosives, self-reactive substances and organic peroxides are excepted from the requirement to provide a packing group as part of the required description, a great deal of confusion is created given that, irrespective of this text, packing groups are provided for these substances in the §172.101 Table. The confusion often results in carrier acceptance personnel or enforcement personnel insisting that a packing group be indicated on the shipping papers for these substances and delaying the shipment until the requirement is clarified or the perceived error is corrected. The attached email exchange exemplifies the problem.

The Hazardous Materials Regulations are, in this respect inconsistent with international regulations. A packing group is not indicated for these substances in the Dangerous

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Goods Lists in the ICAO Technical Instructions and the IMDG Code. In addition, those regulations restrict the provision of a packing group in the transport document basic description to substances where a packing group has been assigned. With no packing group indicated for these substances in the Dangerous Goods Lists, it is inappropriate to provide a packing group in the dangerous goods description under international regulations. Consequently, even if provision of a packing group is permitted for these substances for domestic transportation, it would constitute a violation of international regulations.

The correction we are seeking would impose no additional costs and would result in a net savings in that many unnecessary delays in hazardous material shipments would be avoided. It is our expectation that there would be an improvement in safety in that elimination of delays decreases the overall transportation risk. The packaging provisions in Part 173 for these substances indicate the level of performance required so that indicating "II" in column 5 is unnecessary for packaging purposes (see §173.60(a), §173.224(a) and §173.225(a)).

PETITION

To address our concerns, we petition PHMSA to amend the §172.101 Table by removing "II" from Column 5 in the case of each explosive, self-reactive substance and organic peroxide listed. An additional consequential amendment would be to delete §173.129.

We appreciate your consideration of this petition. Please contact me directly if you have any questions.

Sincerely,



Vaughn Arthur
President

Enclosure

Fedex Custom critical would not take the load without it. Even when we gave driver (who gave it to her boss) this info. I hand wrote PG II on the bill. Desperate times...not required but accurate info provided.

Packing group is not required for 5.2's

172.202(a)4

The packing group in Roman numerals, as designated for the hazardous material in Column (5) of the §172.101 table. Class 1 (explosives) materials; self-reactive substances; batteries other than those containing lithium, lithium ions, or sodium; Division 5.2 materials; and entries that are not assigned a packing group (e.g., Class 7) are excepted from this requirement. The packing group may be preceded by the letters "PG" (for example, "PG II"); and

Please provide packing group # and an emergency contact number.

4 drums on 1 pallet

Here is hazmat info

ECOLAB BILL OF LADING DESCRIPTION

UN3109,ORGANIC PEROXIDE TYPE F,LIQUID,(PEROXYACETIC ACID,TYPE F, STABILIZED),5.2(8)

HAZARD MASTER FIELDS:

PROPER SHIPPING NAME => ORGANIC PEROXIDE TYPE F,LIQUID
TECH COMP :
(PEROXYACETIC ACID,TYPE F, STABILIZED)
HAZARD CLASS => 5.2 - HAZARD CLASS DESC => ORGPER
SUBSIDIARY HAZARD CLASS => 8 SEGREGATION => POINTS: 000.00
HAZARD MATERIAL ID NUMBER => UN3109 IMO SPECIFIC INFO:
PACKING GROUP => FLAMMABLE FLASHPOINT TEMP =>
LIMITED QUANTITY (Y/N) => N MARINE POLLUTANT (Y/N) =>
REPORTABLE QUANTITY (Y/N) => N TEXT:
PARCEL OVERRIDE (Y/N) => Y REGULATION PAGE # =>
SEGR GRP:
HAZARD CODE INFORMATION DISPLAYED