



AmericanCoatings
ASSOCIATION

March 24, 2015

Docket Management System
U.S. Department of Transportation
Dockets Operations
M – 30, Ground Floor, Room W12 - 140
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Re: Docket No. PHMSA – 2013-0225 (HM-218H) Hazardous Materials; Miscellaneous Amendments (RRR)

Dear Dr. El-Sibaie:

On January 23, 2015, PHMSA issued a Notice of Proposed Rulemaking (NPRM) under HM-218H entitled Miscellaneous Amendments. In this NPRM, PHMSA proposes to update and clarify the regulatory requirements under the Hazardous Materials Regulations (HMR).

ACA is a voluntary non-profit industry association, originally organized in 1888 and comprising today of some 400 members who are engaged in the manufacture and distribution of paint and related products. The membership collectively produces about 90% of the total national volume of paints and allied products. ACA members transport these products in all modes and at least half of the finished products meet the requirements of hazardous materials that are regulated under the HMR. As such, we are very interested in ensuring that the regulatory requirements for transport are appropriate, reasonable and consistent with international regulations.

Part 171
171.22

PHMSA is adding the requirement for an importer to supply regulatory information to both the freight forwarder and the shipper. This requirement previously existed in the HMR, but the requirement of notifying the shipper was inadvertently deleted in a prior rulemaking.

ACA supports inclusion of this clarification of the HMR.

Part 172
172.101

The entry for “corrosive liquids, flammable, n.o.s, UN2920 is revised to harmonize with international standards and provide authorization for limited quantity exceptions for the PG II entry.

The entry for all organic peroxides (Division 5.2), self-reactive substances (Division 4.1) and explosives (Class 1) is amended to remove the Packing Group II designation in order to align with international standards.

The entry for UN3085, Oxidizing solid, corrosive, n.o.s. is proposed to be clarified by adding authorization for the limited quantity exceptions for PG II. This change will ensure consistency with international standards.

ACA is also supportive of the above proposed changes to the Hazardous Materials Table. ACA notes that PHMSA is focused on ensuring consistency with international standards in making these proposed changes. ACA believes that international harmony is vitally important and will help maintain the exemplary safety record for the transport of hazardous materials.

172.201

PHMSA proposes to correct a reference to exceptions for the requirement to provide an emergency response telephone number. Rather than reference 172.604(c), which was changed in HM-206F. The correct reference in 172.201(d) should be to 172.604(d).

172.406

PHMSA proposes to expressly authorize labels with a dotted or solid line outer border of a surface background of contrasting color.

172.514

PHMSA proposes to apply the requirements for non-bulk packaging for IBCs that are labeled instead of placarded.

172.604

PHMSA proposes to clarify that an emergency response telephone number must be in numeric symbols such that no letters can substitute for part of the telephone number.

Part 173

173.150

PHMSA proposes to add a new subparagraph making it clear that registration under Subpart C of Section 107 is required for bulk transportation of combustible liquids.

ACA is also supportive of the proposed changes to the Part 172 and Part 173 listed above. Each of these proposed changes are intended to clarify application of requirements or correct an error in the regulations.

173.306

PHMSA proposes to amend 173.306(k) by clarifying that aerosols shipped for recycling or disposal by motor vehicle, containing a limited quantity are afforded the applicable exceptions provided ORM-D materials granted under 173.306(i) and 173.156(b). PHMSA proposes that such shipments be marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS".

However, with regard to Section 173.306, ACA is concerned that PHMSA is not providing the requisite clarification that is necessary to transport aerosols for recycling or disposal in limited quantities. In the preamble to the proposal, PHMSA explains that a letter of interpretation "provides that, consistent with 173.306(i), packages containing aerosols meeting the limited quantity requirements of Section 173.306(k) must be marked in accordance with Section 172.315(b). In addition, the letter also clarifies that the language "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS" is required for shipments of aerosols shipped for disposal or recycling . . ."

ACA believes that PHMSA incorrectly cited Section 172.315(b), as this is the label requirement for a limited quantity shipment by air. PHMSA correctly cites Section 172.315(a) in the proposed text for Section 173.306(k).

ACA questions the need for the marking "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS" for a limited quantity shipment of aerosols for recycling or disposal. This marking is explicitly not required under Section 173.306(i). Therefore, an original shipment of aerosols meeting the requirements of a limited quantity do not need to have the marking "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS"; but when the aerosols are ready for disposal or recycling (and presumably empty or less than full and the risk is lower), the marking is required. This situation is somewhat confusing and will likely lead to mistakes. In addition, it will also require shippers of aerosols to stock two different boxes or a roll of labels for the disposal/recycling shipments, causing additional costs to be incurred for very low risk commodities. ACA urges PHMSA to reconsider this marking requirement and make it consistent with the marking requirement for limited quantities in Section 173.306(i).

As always, ACA appreciates the opportunity to review and comment on proposed amendments to the HMR. The coatings industry is keen to assist PHMSA in the maintenance of these regulations and provide clear and harmonized requirements for dangerous goods in this country. I am happy to discuss these comments with you at any time.

If you have any questions regarding this proposed change, please do not hesitate to contact me.

Respectfully submitted,



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