

**Department of Transportation
Pipeline and Hazardous Materials Safety Administration**

Docket No. PHMSA–2013–0225

HM–218H

RIN 2137–AF04

**Hazardous Materials:
Miscellaneous Amendments (RRR)**

Comments of the American Chemistry Council

March 24, 2015

The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care[®], common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is an \$812 billion enterprise and a key element of the nation's economy. It is the nation's largest exporter, accounting for twelve percent of all U.S. exports. As producers and offerors/shippers of hazardous materials, ACC members strongly support the regulatory system that is administered by the Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACC therefore appreciates this opportunity to comment on PHMSA's January 23, 2015, Notice of Proposed Rulemaking (NPRM) on "Hazardous Materials: Miscellaneous Amendments" in Docket HM-218H

ACC is concerned that in the Federal Register notice (pages 3796-97), PHMSA included a provision that would broadly prohibit the transportation of certain materials in the same "transport vehicle." That proposed revision of Section 173.21(e) would have a variety of substantial impacts and thus calls for further analysis. We do not believe that a change of such magnitude should have been included in this Docket HM-218H proceeding, which deals with "Miscellaneous Amendments" to the Hazardous Materials Regulations (HMRs). ACC respectfully requests that PHMSA remove this proposal from Docket HM-218H and address the transportation of products in the same transport vehicle by means of a separate notice-and-comment rulemaking. We could also expect to see the agency's thorough assessment of the proposal and its impacts.

The HMRs prohibit having a material in the "same packaging, freight container, or overpack with another material, that if mixed would likely cause a dangerous evolution of heat, flammable or poisonous gases or vapors." But to extend that prohibition to trucks and rail cars would have significant adverse operational effects on carriers and offerors. ACC does not see data in the NPRM that PHMSA that evaluates those impacts on the entire regulated community.

To the contrary, the background information seems to be limited to the set of facts put forward in a single request for a letter of interpretation, which involved certain specific chemicals. Under these circumstances, we recommend that PHMSA first undertake a comprehensive analysis of the types of hazardous materials and packagings that could be on the same transport vehicle, in order to determine whether and how frequently there have been actual incidents involving the commingling of hazardous materials. Also important would be a calculation of the overall probability of such incidents in the future, and an evaluation of the various operational and business effects such an amendment of Section 173.21(e). For example, one likely effect would be to increase the necessary number of truck trips – and that would occur at a time when the motor carrier sector is facing challenges due to driver shortages and other circumstances.

Given the potential scope of this proposed element in Docket HM-218H, we believe that there would be substantial impacts on carriers, shippers, and their downstream customers. Without appropriate cost/benefit analysis of this proposal, the change to Section 173.21(e) should be removed from this collection of “Miscellaneous Amendments” for more thorough consideration.

Thank you in advance for your consideration of ACC’s comments. If you have any questions, or need clarification on any of our comments, please contact the undersigned.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Tom E. Schick". The signature is fluid and cursive, with a large initial "T" and "S".

Thomas E. Schick
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