



Dangerous Goods Advisory Council

7501 Greenway Center Drive ♦ Suite 760 ♦ Greenbelt, MD 20770 ♦ 202/289-4550 ♦ www.dgac.org

March 24, 2015

Docket Management System; U.S. Department of Transportation,
West Building, Ground Floor, Room W12-140, Routing Symbol M-30,
1200 New Jersey Avenue, SE.,
Washington, DC 20590

Subject: Comments on Docket No. PHMSA-2013-0225 (HM-218H)—Hazardous Materials Miscellaneous Amendment, NPRM

The 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's diverse membership includes hazmat shippers, carriers, trade associations, and providers of related goods and services such as packaging, test labs, labels, warehousing facilities, freight forwarding, software, and consultants and trainers. We provide classroom training, webinars and conferences, and actively participate in U.S. rulemaking and international regulatory activities. 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* (UNCETDGGHS), Advisory status at the *International Civil Aviation Organization* (ICAO), and Consultative status at the *International Maritime Organization* (IMO).

DGAC welcomes the opportunity to comment on this NPRM. DGAC supports the Pipeline and Hazardous Materials Safety Administration's (PHMSA) efforts to respond to petitions for rulemaking, including two submitted by DGAC; P-1590 and P-1597. Incorporation of the provisions addressed in these and other petitions provides industry greater flexibility in the shipment of hazardous materials and better clarifies regulatory requirements while maintaining an appropriate level of safety.

Petition P-1590 – As DGAC petitioned, we support PHMSA's proposal to remove the PG II designations for certain organic peroxides, self-reactive substances, and explosives in the Hazardous Materials Table (HMT). Packagings for these materials are not determined by the PG identification in the HMT, but rather through specific requirements in the applicable packaging sections of the HMR. Removal of the PG II assignment will eliminate confusion between the domestic HMR and the international regulations, which currently do not assign a PG to these materials. While it is difficult to estimate specific cost savings by this elimination, it is reasonable to expect that frustrated shipments and potential violations of international regulations would be avoided.

Petition P-1591 – DGAC supports the adoption of the proposals submitted by Air Products and Chemicals, Inc. to revise §§ 171.23(b)(10)(iv)(A) and 171.23(b)(10)(iv)(B) by removing the phrase "regardless of the total contained in the transport vehicle or freight container" from each paragraph. This revision will eliminate confusion between the requirements for domestic shipments and international shipments. In addition, this revision is consistent with the goal to harmonize domestic regulations with the international requirements. Accordingly, we concur with the February 26, 2015 comments submitted by Air Products and Chemicals, Inc. on this rulemaking.

Petition P-1597 – As petitioned by DGAC, we support PHMSA’s proposal to amend the emergency response telephone number requirements to prohibit the use of alphanumeric telephone numbers and only permit numeric telephone numbers to be used on shipping papers. As we state in the petition, historically telephone faces associated integers with letters, but this is no longer the case with all phones. This factor could cause delays in acquiring emergency response information as the first responder would need to convert letters to numbers. Accordingly, we support the proposed amendment to § 172.604(a) to require a numeric format.

Petition P-1601 – Based on this petition, PHMSA is proposing to revise the packaging requirements for nitric acid in ground transportation. As proposed, nitric acid in concentrations of less than 90% in glass inner packagings in outer wooden or fiberboard packagings, would need to be further packed in tightly closed, non-reactive intermediate packagings and cushioned with a non-reactive absorbent material. Based on incident data provided by the petitioner, DGAC does not oppose incorporation of this proposal.

Section 171.22 – PHMSA proposes to reinstate the requirement that both a foreign shipper and forwarding agent at the place of entry to be provided with the requirements of the HMR applicable to the particular shipment. DGAC supports this proposal. This provision will ensure that foreign shippers are notified of the specific requirements of the HMR for shipments that are being shipped to the US, thus minimizing the potential for non-compliance with the particular requirements of the HMR and ensuring safe transport of these materials.

Section 172.514 – PHMSA is proposing to clarify the marking size requirement, for both the proper shipping name and identification number for an IBC that is labeled instead of placarded. Currently the bulk marking requirements must be met on such IBCs. PHMSA has proposed to reference the non-bulk packaging requirements for IBCs that are labeled, thus eliminating confusion and decrease frustrated shipments, while maintaining safety. DGAC supports harmonization of the HMR with applicable international requirements. However, in this proposal, PHMSA is proposing to require both the proper shipping name and the identification number meet the size requirements for non-bulk packaging for IBCs that are labeled instead of placarded. DGAC notes that the IMDG Code does not prescribe a minimum size requirement for the proper shipping name, but only for the Identification Number. In addition, PHMSA has interpreted that there is no size requirement for the proper shipping name (see 14-0228). Accordingly, DGAC believes that in order to achieve harmonization, the HMR should not require a minimum size for the proper shipping name marking requirement. The proposed text below achieves this position.

(4) For an IBC labeled in accordance with subpart E of this part, instead of being placarded, the IBC may display the proper shipping name and UN identification number markings in accordance with § 172.301(a)(1) in place of the UN number on an orange panel, placard or white square-on-point configuration as prescribed in § 172.336(b); and

Section 173.21 – PHMSA is proposing to prohibit the transportation of a material on the same transport vehicle that if mixed with another material, would likely cause a dangerous evolution of heat, flammable or poisonous gases or vapors, or produce corrosive materials. Currently, this prohibition applies to materials in the same freight container, overpack or same container. DGAC does not support this proposal for the following reasons:

- This prohibition would apply not only to materials identified as hazardous materials, but also to non-hazardous materials. It is not possible or reasonable to a motor or rail carrier to know all possible reactions with all materials being transported on the same transport vehicle.
- PHMSA has not proposed or provided any criteria to define what is “a dangerous evolution of flammable or poisonous gas or vapor, heat or corrosive materials.” Such criteria is especially needed in making such a determination in a transport vehicle transporting numerous and varied materials.
- PHMSA had not provided incident justification for this proposed change.
- This proposal would have a significant negative impact especially on less-than-truck load shippers and carriers. Shippers do not have any information on what is already loaded on a motor carrier’s vehicle and drivers do not have the knowledge and expertise to make determinations as to what materials being offered or already on their vehicle may have such a reaction.
- This proposal could have significant cost increases due to the need for multiple separate pickups and deliveries, frustrated shipments, and additional vehicles necessary to transport these materials. All of these would result in additional vehicles on the highways, fuel costs, and general population exposure, without any increase in safety.
- Both shippers and carriers would need to develop, if possible, involved and “technical” training mechanisms to accomplish this prohibition.
- This prohibition could also cause inconsistent application and understanding of this prohibition, not only by shippers and carriers, but also enforcement personnel.

Sections 173.170 and 173.171 - PHMSA is proposing to revise the section to clarify that the total quantity of black or smokeless powder, classed as a Division 1.3, is limited to 100 pounds on a “transport vehicle,” rather than on one “motor vehicle” as currently specified. DGAC supports this revision.

Thank you for the opportunity to comment on this rulemaking action.

Sincerely,



Vaughn Arthur
President