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Via Federal Rulemaking Portal

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

Pipeline and Hazardous Materials Safety Administration
Docket Number: PHMSA-2013-0225 (HM-218H)
Hazardous Materials: Miscellaneous Amendments (RRR)

Dear Sir or Madam:

The Dow Chemical Company (“Dow”) submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) in the above-referenced docket on January 23, 2015. In this NPRM, PHMSA is proposing to make miscellaneous amendments to the Hazardous Materials Regulations (“HMR”) to update and clarify certain regulatory requirements.

Dow’s integrated, market-driven, industry-leading portfolio of specialty chemical, advanced materials, agrosiences, and plastics businesses delivers a broad range of technology-based products and solutions to customers in approximately 180 countries and in high growth sectors such as electronics, water, energy, coatings and agriculture. In 2013, Dow had annual sales of more than \$57 billion and employed approximately 53,000 people worldwide. Dow’s more than 6,000 products are manufactured at 201 sites in 36 countries across the globe.

Dow appreciates the opportunity to comment on the revisions PHMSA is considering to adopt into the HMR. As a member company of the Dangerous Goods Advisory Council (“DGAC”) and The Chlorine Institute (“CI”), Dow has contributed to the comments filed by those organizations, and incorporates those comments by reference, which includes Dow’s position on other issues raised in the NPRM that Dow does not address here. Dow offers these comments on select elements of the NPRM.

§171.7 – Incorporation by Reference the AAR M-1002 Tank Car Manual

Dow has concerns with the approach PHMSA is proposing to incorporate by reference the Association of American Railroads (“AAR”) Manual of Standards and Recommended Practices,

Section C-III, Specification for Tank Cars, Specification M-1002 (“M-1002 Tank Car Manual”). The HMR currently incorporates by reference an older version of the M-1002 Tank Car Manual incorporated in its entirety (October 2000 version). In this NPRM, PHMSA is proposing to incorporate each chapter and appendix individually, with different effective dates depending on which version the agency supports. This means that not every chapter or appendix proposed for incorporation is from the same year.

Dow believes the HMR should simply incorporate by reference the most current version of the M-1002 Tank Car Manual. Referencing certain previous amendments of older versions of the M-1002 Tank Car Manual into the HMR will cause confusion and unnecessary burden. As PHMSA states in the NPRM, if the Federal Railroad Administration (“FRA”) does not support specific current AAR standards or practices and deems them unsafe, then Dow believes those “safety concerns” should be explained in the NPRM. If adopted as proposed the railroads could refuse interchange if a tank car owner doesn’t comply with the current version of the M-1002 Tank Car Manual in its entirety (current version being November 2014). To avoid this possibility, the FRA’s participation in the AAR Tank Car Committee should be used to coordinate and reduce the number of versions of standards and practices of which tank car owners must comply.

To reiterate, Dow believes the most current version of the M-1002 Tank Car Manual, in its entirety, should be the only version incorporated by reference into the HMR.

§172.514(c)(4) – Marking Size on IBCs

PHMSA is proposing to clarify the marking size requirements for both the proper shipping name and identification number on an IBC that is labeled instead of placarded. Specifically, PHMSA is proposing that the proper shipping name, in addition to the identification number, be at least 12 mm (0.47 inch) high. As stated in the NPRM, the identification number is currently authorized to be displayed on an IBC at least 12 mm high according to §172.336(d).

One of the reasons for the proposed clarification stated in the NPRM is for harmonization with international regulations, thus ensuring IBC’s marked in accordance with these regulations are consistent with the HMR. However, for example, under the International Maritime Dangerous Goods (IMDG) Code there is no minimum height requirement for the proper shipping name on an IBC, only the UN number. Please reference IMDG Code 5.2.1 entitled “Marking of packages including IBCs”, which, as specified in 5.2.1.1, only requires minimum height requirements for the UN number, not the proper shipping name, as follows:

5.2.1 Marking of packages including IBCs

5.2.1.1 Unless provided otherwise in this Code, the proper shipping name for the dangerous goods and the corresponding UN number, preceded by the letters “UN”, shall be displayed on each package. The UN number and the letters “UN” shall be at least 12 mm high, except for packages of 30 L capacity or less or of 30 kg maximum net mass and for cylinders of 60 L water capacity when they shall be at least 6 mm in height except for packages of 5 L or 5 kg or less when they shall be of an appropriate size.

Additionally, in PHMSA letter of interpretation reference number 14-0228 dated January 16, 2015 and signed by PHMSA’s Acting International Standards Coordinator, PHMSA supports that

the 12 mm minimum height requirement applies to the identification number marking, not the proper shipping name marking, for an IBC that is labeled instead of placarded under the HMR, also consistent with the IMDG Code reference noted.

Therefore, in order to achieve PHMSA's goal of international harmonization, specifically that the marking minimum height requirements for an IBC labeled instead of placarded only apply to the UN number and not the proper shipping name, Dow respectfully requests the regulatory text in §172.514(c)(4) read as follows:

(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

§180.407 – Pressure Vent Bench Test

Dow supports the changes as proposed with regards the bench testing requirements for pressure relief devices on cargo tanks. Dow believes these changes will help clarify the requirements and help promote safety.

We appreciate the opportunity to comment in response to this NPRM.

Sincerely,

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