

BEFORE THE
PIPELINE AND HAZARDOUS MATERIALS SAFETY
ADMINISTRATION
(PHMSA)

DOCKET NO. PHMSA– 2013-0225 (HM–218H):
HAZARDOUS MATERIALS: MISCELLANEOUS AMENDMENTS
(RRR)

COMMENTS OF THE
ASSOCIATION OF AMERICAN RAILROADS¹

The Association of American Railroads (AAR),² on behalf of itself and its member railroads, submits the following comments in response to PHMSA’s request for comments on the proposed miscellaneous amendments the Hazardous Materials Regulations.³ AAR's members transport over 2.7 million carloads of hazardous materials per year by rail, and have a significant stake in the safe transportation of those materials. AAR has comments on PHMSA’s proposed amendment to §173.21(e), the inclusion of the updated versions of the AAR Manual of Standard and Recommended Practices, Section C-III, Specifications for Tank Cars, M-1002 in §171.7 Reference Material, and DGAC Petition P-1597 requiring that ER telephone numbers be displayed on shipping papers numerically §172.604.

Proposed Amendment to §173.21 Forbidden materials and packages (e).

The proposed amendment originates from a letter of interpretation describing a company that ships two different products in two separate intermediate bulk containers, in the same transport vehicle. The two products, if mixed, could create a forbidden material per §172.101. The proposed amendment specifically prohibits the transport of, “material in the same packaging, freight container, overpack, or *transport vehicle*⁴...” AAR is concerned that the addition of the term “transport vehicle” includes the shipment of two intermodal containers on one flat or well rail car (“rail car”). If the amendment becomes

¹ The NPRM refers to the “American Association of Railroads.” Please note the correct name, *Association of American Railroads*.

² AAR is a trade association whose membership includes freight railroads that operate 76 percent of the line-haul mileage, employ 93 percent of the workers, and account for 95 percent of the freight revenue of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

³ FR Doc No: 2015-00265 (January 23, 2015).

⁴ The term “transport vehicle” is defined in §171.8. It includes “rail car[s] used for the transportation of cargo.” A “rail car” is defined as a “...flat car...” §171.8. Because the proposed amendment includes the term “transport vehicle,” it includes intermodal (well and flat) rail cars.

final, as explained further below, railroads would possibly become responsible for ensuring that no rail car holds two intermodal containers with products that could form a forbidden material.

Intermodal rail cars are designed to carry two freight containers per rail car. Under the proposed rulemaking, the transport of two separate intermodal shipping containers on one rail car would be prohibited if each of the containers were carrying one hazardous material, that when mixed, would create a forbidden material. The scenario described in the letter is not likely to occur in the context of two intermodal containers on one rail car. Shipping materials in two separate intermodal shipping containers is different than shipping two materials in the same container, the scenario provided in the letter. The materials simply do not have the ability to mix across intermodal containers to create a forbidden material during ordinary transport.

The proposed amendment would possibly require the railroads to ensure that each of the two intermodal containers on each rail car only held contents that would not create a forbidden mixture. Railroads ship 2.7 million carloads of hazardous materials per year by rail. Meeting this standard in the context of double intermodal rail car shipments would be incredibly burdensome and costly. The likelihood of materials mixing through intermodal containers during normal shipment would be extremely remote.

AAR believes that it was not PHMSA's intent to include double intermodal rail shipments on one rail car, as described above, and requests that PHMSA exempt the transportation of two intermodal containers on a single rail car.

§ 171.7 Reference Material: Incorporate by reference updated versions of the Association of American Railroads (AAR) Manual of Standards and Recommended Practices, Section C–III, Specifications for Tank Cars, Specification M–1002.

In the proposed rule, PHMSA has incorporated by reference of all sections that refer to the October 2000 version of the M-1002; however, it has not incorporated many of the subsequent standards. AAR requests that the majority of its other standards also be incorporated by reference as discussed further below. AAR wishes to assist PHMSA in incorporating the sections of the AAR standards that are not undergoing rulemakings at PHMSA.

In this rulemaking, PHMSA proposes the following:

- The incorporation by reference for this document to include revisions published by the AAR in the 2007 edition of the AAR Specifications for Tank Cars and certain subsequent amendments.
- The FRA reviewed the 2007 standard and the subsequent amendments and *determined not to incorporate the 2007 standard in its totality.*
- Each chapter and appendix of the AAR Specifications for Tank Cars will be listed in §171.7 with an effective date to account for the most recent AAR amendments supported by FRA.

- In cases where FRA does not support amendments made to the AAR Specifications for Tank Cars due to safety concerns, a prior effective date for that specific chapter or appendix will be referenced, and in some cases, specific sections of the chapter or appendix will be specifically not included.

AAR requests that the final rule include the latest edition of the AAR specification for tank cars that was published in November 2014. It is unclear why PHMSA would not consider incorporating by reference this version of the AAR Specifications for Tank Cars. AAR understands that certain sections cannot be incorporated by reference because PHMSA has active rulemakings addressing the same subject matter in the AAR Specifications for Tank Cars (For example NPRM HM-251 has content similar to Chapter 2 of the AAR Specifications for Tank Cars.); however, most of the standard can be incorporated. AAR requests that PHMSA incorporate all sections of the standards that do not have ongoing rulemakings.

Failing to incorporate the November 2014 version of the AAR Specifications for Tank Cars will cause industry confusion and will make compliance with both the federal regulations and the current AAR Specifications for Tank Cars challenging. In order to comply with both, industry will have to apply for a special permit that allows them to perform to the AAR Specifications for Tank Cars, which are not referenced by incorporation.

AAR requests that PHMSA incorporate the parts of the November 2014, AAR Specifications for Tank Cars (M-1002) that do not have ongoing rulemakings. AAR also requests a list of safety concerns the agency has with the AAR Specifications for Tank Cars. Moving forward AAR strongly supports working together on a scheduled implementation plan to evaluate and incorporate amendments made by AAR to the AAR Specifications for Tank Cars.

§ 172.604 Emergency response telephone number.

In response to DGAC's petition, PHMSA agreed that it merited a rulemaking change. AAR agrees that the use of alphanumeric telephone numbers risks causing unnecessary delays in emergency response situations. Therefore, AAR supports PHMSA's proposed language to § 172.604(a) to require a numeric-only emergency response telephone number.

AAR appreciates the opportunity to provide feedback to the request for this rulemaking. AAR members are committed to the safe, secure and efficient transportation of hazardous materials, and look forward to PHMSA's response to this request.

Respectfully submitted,

//Signed//

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