



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

April 9, 2025

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

RE: Docket Number: PHMSA-2018-0080
Hazardous Materials: Advancing Safety of Highway, Rail, and Vessel Transportation

Dear Acting Administrator Kochman,

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments in response to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) notice of proposed rulemaking (NPRM) seeking stakeholder feedback on proposed revisions to the Hazardous Materials Regulations (HMR) intended to enhance the safe transportation of hazardous materials in commerce, Docket Number PHMSA-2018-0080.

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

Below, please find responses from CVSA to the changes proposed in the NPRM. Please note, CVSA has limited responses to those items that are relevant to the Alliance's membership.

CVSA Comments on Relevant Proposed Changes

- *Section 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations*

In the NPRM, PHMSA proposes to revise the introductory text of paragraph § 171.23 (b)(5) and paragraph (b)(5)(iii) to clarify that the letters "RQ" and the name of the hazardous substance must be marked only on non-bulk packages that contain reportable quantities of a hazardous substance. The HMR do not currently require this marking on bulk packages because § 172.324, which is the section that requires the "RQ" marking, only applies to non-bulk packages. CVSA concurs with the agency that shippers misinterpret § 171.23(b) as

requiring this marking on bulk packagings and supports the proposed language change, which will provide the clarification necessary to avoid further confusion.

- *Applicability of Safety and Security Plan Requirements to Special Provision 13 Materials*

PHMSA proposes to specify that security plan requirements apply to materials assigned to Special Provision 13. As noted in the NPRM, as currently written, it is unclear whether security plan requirements apply to these shipments. Therefore, to ensure safe transportation of these hazardous materials, to facilitate compliance with the hazardous materials regulations (HMR) and to provide additional clarity, CVSA agrees it is necessary to explicitly state in the regulations that the security plan requirements found in Subpart I of Section 172 apply to materials assigned to Special Provision 13. Making this change will ensure that the requirement is enforceable by inspectors when conducting compliance reviews and cargo tank facility reviews.

- *Section 172.328 Cargo Tanks, (d) Emergency Shutoff Marking*

Editorial Changes and New Heading

CVSA supports PHMSA's proposal to make several technical adjustments to subparagraph (d) including adding a new subparagraph heading, in order to make the subsection consistent with the rest of the section. CVSA applauds the agency's efforts to improve the consistency and readability of the regulations.

Expanding Marking Requirement to External Self-Closing Stop Valves

In addition, PHMSA is proposing to require that the emergency shutoff marking requirement found in § 172.328(d) applies to both internal and external self-closing stop valves, instead of just internal self-closing stop valves. CVSA supports this change.

Clarifying the Term "Immediately Adjacent"

In addition, CVSA encourages the agency to ensure that the requirement specifies that the marking must be within a certain distance of the device, e.g. "no more than 6 inches from the means of enclosure." Currently, the regulation states that the marking must be "located in an area immediately adjacent to the means of enclosure." However, the term "immediately adjacent" is not defined in the regulations. As a result, the requirement is subject to the individual inspector's interpretation of what qualifies as "immediately adjacent", and the regulation is being enforced inconsistently. CVSA requests that PHMSA replace the existing language with a specific minimum distance away from the means of enclosure that the marking must appear, in order to provide clear requirements for industry and ensure the regulation can be enforced consistently and accurately. This change would be consistent with other marking requirements, including the requirement in subparagraph that the marking be "at least 0.75 inches in height."

Require the Marking Be Unobstructed

In addition, CVSA recommends that the agency clarify that the markings must be unobstructed. Roadside inspectors often find this required marking obstructed by cargo tank or vehicle components. The language in the current regulation does not specifically require that the marking be clearly visible and unobstructed. While § 172.304 can be used to address this issue, CVSA recommends it be specifically addressed in § 172.328(d).

- *Section 172.336 Identification Numbers; Special Provisions (c) Identification Numbers Are Not Required*
Proposed Revision to § 172.336(c) Table

CVSA opposes PHMSA's proposal to revise the § 172.336(c) table, to authorize display of the UN ID number of the petroleum distillate fuel with the lowest flash point transported in a cargo tank in different trips on the previous or current business day. As noted in the NPRM, CVSA was not opposed to making this change when it was proposed as part of the Advanced Notice of Proposed Rulemaking (ANPRM) on Hazardous Materials: PIPES Act Requirements for Identification Numbers on Cargo Tanks Containing Petroleum Based Fuel, Docket No. PHMSA-2016-0079. However, in response to that same docket, the emergency responder community noted that the proposed change would present a potential safety hazard to emergency responders, specifically that:

“state that emergency responders would treat an incident— including clean-up and spill mitigation— involving diesel fuel differently from gasoline, and the use of the gasoline “1203” marking in place of the diesel fuel “1202” or “1993” increases confusion and decreases response effectiveness. Specifically, first responders may use the presence (or lack) of a fire and communicated hazard to determine the potential dangers of the fuel in the immediate aftermath of an accident. Because “1203” signifies a material with a lower flashpoint than “1202” or “1993” is present on the vehicle, the absence of a fire signifies that there may not be a fire hazard. However, when the higher flashpoint material is present, but only the lower flash point material is communicated on the vehicle, the absence of a fire may create a false sense of security for emergency responders, as they would be unaware that the fuel in the tank or spilled on the ground had not yet reached the higher flash temperature for diesel fuel.”

While the proposed change would not directly impact the roadside inspector community, CVSA opposes the proposed change, based on the safety concerns outlined by the emergency response community.

Furthermore, it should be noted that because this question has gone unresolved for some time, both industry and enforcement have adapted to the current marking requirements in place and a change at this point would be costly to implement, as both enforcement and industry personnel would have to be retrained. Given the potential risk to first responders associated with the change and the fact that industry has largely adjusted to the status quo, CVSA does not support making the proposed change at this time.

Define Petroleum Distillate

In addition, CVSA recommends that PHMSA add a definition of the term “petroleum distillate” to § 171.8 Definitions and abbreviations. Currently, the HMR make repeated references to the term “petroleum distillate” but the term itself is not clearly defined. In order to ensure consistent and accurate understanding and enforcement of the regulations, a clear definition of the term is necessary. Currently, when a roadside inspector stops a cargo tank transporting a petroleum product or a petroleum product mixed with another hazardous material, it is unclear if the product qualifies as a petroleum distillate. For example, gasoline and ethyl alcohol at different concentrations are commonly mixed and shipped. There is no definition of petroleum distillate to refer to when a regulation references the term. This causes confusion for both enforcement and industry when complying with or enforcing regulations that reference petroleum distillates. This includes the

regulations in § 172.336 when displaying identification numbers and § 180.407(h)(2) when performing a leakage test on cargo tanks transporting petroleum distillates.

- *Section 180.415 Test and Inspection Markings for Cargo Tanks*

Finally, § 180.407 sets forth the requirements for testing and inspection of specification cargo tanks and § 180.415 establishes marking requirements to demonstrate that a cargo tank has successfully completed the test and inspection requirements found in § 180.407. In the NPRM, PHMSA is proposing to require that the cargo tank must be marked with the cargo tank registration number of the cargo tank facility performing the test or inspection.

As noted in the NPRM, the agency has observed instances where a cargo tank is marked to have met the testing and inspection standards but the agency has identified safety concerns inconsistent with that certification. CVSA supports requiring that the cargo tank be marked with the cargo tank registration number of the cargo tank facility performing the test or inspection, as requiring this information would enable enforcement to identify testing and inspection facilities that demonstrate inconsistent or insufficient safety performance.

In the NRPM, FMCSA notes that the proposed new marking requirement would be required to be placed “immediately adjacent” to other required markings. CVSA reiterates our prior comment regarding the term “immediately adjacent” and encourages PHMSA to provide a more specific definition of the term or to set for a specific distance for the marking requirement, in order to ensure effective, consistent enforcement of this marking requirement.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency’s commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me at 202-998-1008 or collin.mooney@cvsa.org.

Respectfully,



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