

Transportation Revisions Are Coming Down the Pipeline

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The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) recently signaled interest in revising the hazardous materials regulations (HMR) governing transportation of combustible materials. PHMSA seeks to harmonize domestic and international regulations applicable to transportation of combustible liquids.

How It All Began

PHMSA on April 5 issued an advance notice of proposed rulemaking (ANPRM). Current provisions of the HMRs relating to shipments of combustible materials sometimes impede international shipments of these materials, according to the notice. PHMSA solicited comments on how to amend the HMRs to address impediments while assuring safe transport of combustible materials.

A "combustible liquid" is defined as any liquid that doesn't meet the definition of any other hazard class specified in the HMRs and has a flash point above 140oF and below 200oF. Under the HMRs, shippers can "reclassify" flammable liquids as combustible liquids if the liquid has a flash point above 100oF and doesn't meet the definition of any other hazard class. International standards don't include a definition or classification for combustible materials, nor provide for reclassification of flammable to combustible liquids. When transporting combustible materials internationally, shippers have encountered difficulties with authorities outside the U.S. who are confused over the combustible classification. PHMSA has received three petitions from trade groups seeking to amend the HMRs to harmonize domestic and international shipping standards.

PHMSA has identified several issues that it may address through rulemaking. These include among others: harmonizing HMR definitions and requirements for combustible liquids with international standards; modifying HMR requirements for marking and placarding shipments of combustible liquids to eliminate confusion that occurs when shipments marked and placarded for domestic transportation are transported in international commerce; and expanding current HMR exceptions for combustible liquids to accommodate unique operational requirements.

PHMSA recognizes that HMR provisions for transportation of combustible liquids may be confusing to domestic and international shippers, and notes that this lack of clarity may present safety concerns, including mishandling or misidentification of these shipments in transportation, or transportation of undeclared shipments. To address this concern, PHMSA is considering eliminating the domestic exception that allows reclassification of high-flash-point flammable liquids as combustible liquids. Such a revision would establish a uniform definition for a flammable liquid as one having a flash point of not more than 140oF for both domestic and international transportation. Non-bulk shipments of these materials could then be consistently

transported as flammable liquids in the U.S. and abroad, thus reducing the possibility for unsafe handling of shipments globally.

PHMSA also is considering establishing an alternative for high-flash-point flammable liquids. PHMSA may include current domestic exceptions for high-flash-point flammable liquids in non-bulk packaging in a revised set of Class 3 requirements. This would eliminate the necessity of reclassifying these materials as combustible liquids to use the exceptions, could be less cumbersome, and would facilitate a clearer understanding of the regulations.

PHMSA also is assessing whether using unique identifiers for combustible liquid shipments could diminish confusion that results when shipments of reclassified combustible liquids or combustible liquid shipments regulated under the HMR but not under international standards are transported to and from the U.S. In addition, PHMSA is considering expanding exceptions to transportation of combustible liquids to accommodate unique operational requirements or needs. PHMSA also may expand current exceptions for hazardous materials that are transported in support of agricultural operations to include activities such as harvesting.

Next Steps

PHMSA has asked interested stakeholders to answer specific questions to guide its regulatory judgment as to how best to proceed. Because PHMSA issued an ANPRM instead of a notice of proposed rulemaking, stakeholders have an excellent opportunity to share their views and experience with PHMSA and shape how the government will proceed in this important initiative. Although the comment period expired on July 6, stakeholders are urged to provide information to PHMSA now to ensure the administrative record contains information it should to inform PHMSA's next steps. Next steps could include issuing a proposed rule, a determination that additional material and information are needed, or a decision not to proceed with a rulemaking. For further information, please consult the Federal Register at <http://frwebgate1.access.gpo.gov/cgi-bin/PDFgate.cgi?WAISdocID=Su0Zhi/1/2/0&WAIAction=retrieve>.

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