

U.S. Adopts Global Transportation Standards

By

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On August 24, 2010, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) proposed to harmonize the Hazardous Materials Regulations (HMR) with international standards. 75 Fed. Reg. 52069. The proposed rule revises several proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. Importantly, the proposal would also amend several key components of the HMRs and to the shipping requirements for several hazardous materials. The major proposed changes are discussed below.

Background

PHMSA states that these revisions are necessary for the HMRs to be consistent with recent changes made to the International Maritime Dangerous Goods Code (IMDG), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI), and the United Nations Recommendations on the Transport of Dangerous Goods -- Model Regulations. Most in industry would agree that international harmonization is a desirable goal.

The proposal would amend the Hazardous Materials Table to add, revise, or remove certain proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, bulk packaging requirements, passenger and cargo aircraft maximum quantity limitations, and vessel stowage provisions. As these provisions could impact many sectors, care should be taken to review them.

The proposal would revise the “limited quantity” exception. Amendments for the highway, rail, and marine transportation of limited quantities are based on the recently adopted limited quantity provisions in the UN Model Regulations and IMDG Code. Amendments for the air transportation of limited quantities are based on the 2011–2012 revision of the ICAO TI. PHMSA is proposing a transition period for alignment of the HMR limited quantity eligibility (including consumer commodities) when transported by all modes (domestic and international), in accordance with HMR requirements that are based on international standards for limited quantities and consumer commodities.

The proposal would incorporate by reference the 2011–2012 ICAO TI, Amendment 35–10 to the IMDG Code, and the Sixteenth Revised Edition of the UN Model Regulations. PHMSA is also proposing to update its incorporation by reference of the Canadian Transportation of Dangerous Goods Regulations to include recent amendments to the Canadian regulations. This incorporation by reference supplements the broad reciprocity provided in 49 C.F.R. Section 171.12 where the HMR allow the use of the Canadian TDG Regulations under certain conditions when transporting hazardous materials to or from Canada by highway or rail.

PHMSA also addresses in the proposal a petition from the People for the Ethical Treatment of Animals (PETA) requesting that PHMSA incorporate by reference OECD Guidelines 430, 431, and 435 into the HMR that prescribe *in vitro* testing methods for determining corrosivity. This revision, if issued in final, could expand the universe of materials considered to be corrosive (Class 8) under the HMRs.

PHMSA states that the transportation of sour crude oil “may pose risks due to its inherent potential of evolving hydrogen sulfide.” Based on the risk of toxic vapors, the UN Model Regulations were amended by assigning a new identification number and shipping description for sour crude oil with a flammable primary hazard and a toxic subsidiary hazard. Additionally, a new special provision was added specifying the assignment of a Packing Group (PG) based on the degree of danger presented by either the flammability or toxicity hazard of the sour crude oil. The proposal contains other provisions pertinent to sour crude.

Other changes proposed by PHMSA include revised classification of certain Division 1.4S explosives, changes to the intermediate bulk container (IBC) rebottling standards, and revisions to the standards for metal hydride storage systems.

PHMSA is not proposing to adopt all of the changes from the amendments made to various international standards. In some cases, PHMSA has opted not to adopt the amendments to the international recommendations because the framework or structure of the HMR makes adoption unnecessary. In other cases, PHMSA believes addressing certain changes may be better accomplished through current or future rulemakings. For example, PHMSA

decided not to adopt changes to the requirements for transporting lithium batteries by air, because PHMSA has already adopted revisions for lithium batteries.

On the whole, the proposed rule makes a lot of sense. Stakeholders may wish to monitor it and/or engage, as appropriate.

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