



# Dangerous Goods Advisory Council

Suite 740 ♦ 1100 H Street NW ♦ Washington DC 20005 ♦ 202/289-4550 ♦ Fax 202/289-4074 ♦ www.dgac.org

August 27, 2007

Ms. Krista Edwards  
Acting Administrator  
Pipeline and Hazardous Materials Safety Administration  
US Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

Dear Ms. Edwards:

On June 4, 2007, DGAC appealed PHMSA's HM-215F final rule stating that it jeopardized the world wide acceptance of packagings meeting the United Nations requirements, exceeded the proposed rule, and due to increased complication of understanding had the effect of frustrating US trade in hazardous materials. We provided examples of problems with the rule but noted that responding to our comments through simple adjustments to the rule was not likely to solve the many problems anticipated. DGAC requested that PHMSA hold a public hearing to elaborate concerns and to provide for full industry participation. A copy of our comments is attached.

Perhaps the most significant change introduced by the final rule is the requirement for packages of dangerous goods imported into the United States to meet additional requirements (e.g., the ability of foreign packages containing dangerous goods to withstand the vibration test) in the Hazardous Materials Regulations. PHMSA staff has informally acknowledged the change was unintentional; however, there has been no formal communication of the error to the affected industry. There is now confusion as to the need to comply with these requirements. A significant lead time is needed to communicate the new requirements to foreign shippers, and for shippers to evaluate their implications, and bring their packages into compliance.

The 90 day period for PHMSA to respond to our appeal, as provided by regulation, is now past. DGAC is concerned that the absence of a written response suggests that PHMSA intends to make minor adjustments to the final rule instead of holding a public hearing as requested. We note that this rule was intended to enhance "user friendliness." If this is indeed the case, we would think the subject of this rule would be a prime candidate for PHMSA's Enterprise Approach.

We appeal to you to once again consider the holding of a public hearing on the HM-215F final rule. We also note that the rule becomes effective on October 1, 2007. With the effective date close at hand and the confusion on the applicability of certain new requirements, we also strongly urge PHMSA to postpone the effective date of the rule.

Sincerely,

Michael Morrisette  
President