

Dangerous Goods Advisory Council

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



July 16, 2008

Docket Management System
US Department of Transportation
Dockets Operations, M-30
Ground Floor, Room W12-140
New Jersey Ave. SE
Washington, DC 20590-0001

Re: HM-208G Comments on Docket No. PHMSA – 2008-0010 (HM-208G); Hazardous Materials Transportation; Registration and Fee Assessment Program; Notice of Proposed Rulemaking

DGAC is a non-profit educational organization that promotes hazmat transportation safety by providing classroom training, seminars and conferences, and participation in domestic and international regulatory activities in its promotion of not only safe, but also efficient transportation of hazardous materials/dangerous goods in commerce.

On October 16, 2006, DGAC provided comments on HM-208F. Except for the DGAC supported lower increase in fees for businesses other than small businesses, HM-208G is very similar to the proposal in HM-208F. In this respect, we had hoped that comments provided on HM-208F made by DGAC and others would have been taken into account or discussed in the preamble to HM-208G.

While we support the overall objectives of the Hazardous Materials Emergency Preparedness (HMEP) program, we believe the time has come for a complete reassessment of program goals and the manner in which the program is managed. While we recognize that the SAFETEA-LU amendment combined with PHMSA's budget authorization permit funding up to a limit of approximately \$28,000,000 in support of the HMEP program, PHMSA is under no obligation to fund the program up to the authorized limit. DGAC does not consider it prudent to fund the program at the full funding level absent well documented needs and a credible oversight policy. Considering the many issues, we believe a comprehensive assessment should take place prior to increasing the funding for this program.

DGAC also believes that PHMSA should consider ways of making the HMEP program more effective. In particular, we question the continuing need to fund planning grants to the level anticipated. Given the time the HMEP program has been in effect, we believe the need for planning has declined, particularly in areas with considerable exposure to hazardous materials. Since the HMEP was implemented, planning needs often demand a regional view. The HMEP is limited in what assistance it can direct to regional planning since 75 percent of the funds are passed directly to localities. A more effective use of HMEP would be for training of emergency responders. PHMSA should exercise its discretion and shift new monies to training.

State and local governments often subject industry to additional fees to support emergency response. As permitted by statute, PHMSA should initiate a program to collect information on fees collected by state and local governments and use the information in allocating HMEP funds.

DGAC objects to the allocation of \$4 million to non-profit hazmat employee organizations. Based on experience, the training provided to instructors and subsequently to employees through this type of program is not open to observation by the management of companies who employ the individuals targeted for training. This places companies in the untenable situation of not being able to control the content of training provided their employees while they remain responsible for employee safety and that of the public in relation to their operations. PHMSA has not explained how and for what purpose it plans to use the \$4 million. Until the public understands how this allocation is to be used and how it will benefit hazmat transportation safety, this allocation should not be made.

DGAC opposes the proposed approach of requiring that the full burden of the increased funding level rest on the shoulders of large businesses. In any case, we believe a better analysis supporting this approach is warranted. We recommend PHMSA consider a more objective means of deciding how the fees should be allocated, perhaps through a risk based, statistical approach using incident data.

The Dangerous Goods Advisory Council (DGAC) appreciates the opportunity to comment on the HM-208G NPRM.

Sincerely,

A handwritten signature in black ink that reads "Michael Morrisette". The signature is written in a cursive, slightly slanted style.

Michael Morrisette
President