



October 16, 2006

Docket Management System
US Department of Transportation
400 7th St. SW
Nassif Building, Room PL-402
Washington, DC 20590-0001

Re: HM-215I Comments on Docket No. PHMSA – 2006-25476 (HM-215I); Hazardous Materials: Harmonization with the United Nations Recommendations, International maritime dangerous Goods Code, and the International civil Aviation Organization's Technical Instructions; 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.

General Comments

DGAC appreciates PHMSA's efforts to harmonize the DOT Hazardous Materials Regulations with related international regulations. In this regard, DGAC urges PHMSA to issue a final regulation as soon as possible in order to avoid inconsistencies between the HMR and revised international regulations that will become effective on 1 January 2007.

DGAC regrets that amendments to the ICAO Technical Instructions allowing passengers to carry onboard limited numbers of fuel cell cartridges effective 1 January 2007 were not proposed for introduction in the HMR under the HM-215I proposal. DGAC is concerned about the potential confusion that this omission may create for the international traveling public. DGAC urges PHMSA to propose provisions for fuel cell cartridges consistent with the ICAO TI as soon as possible. DGAC also regrets that provisions for transporting small cartridges containing hydrogen in metal hydrides as cargo aboard cargo aircraft were not included in the HM-215I NPRM and again urges PHMSA to adopt these provisions in a timely manner.

Section-by –Section Comments

§171.14 Continued use of existing criteria for flammable and toxic substances. DGAC notes that PHMSA proposes to permit use of the existing criteria in effect up until December 31, 2006 until January 1, 2012. DGAC appreciates the long lead time proposed for implementing new criteria for flammable liquids and toxic substances consistent with the GHS. DGAC is not aware of any similar lead time being provided in relation to shipments in accordance with international regulations. We are concerned that this may produce inconsistencies and could result in packages of substances (e.g., a solid substance with an acute oral toxicity of more than 200 mg/kg but less than or equal to 300 mg/kg) initially consigned as nondangerous in accordance with the HMR being subsequently inadvertently shipped as such in international commerce.

§172.202(a)(5) Requirement to provide the net quantity of hazardous material per package for air transport. In the preamble to HM-215I PHMSA notes that it is proposing to require that shipping paper notations for hazardous materials include the net quantity of hazardous materials per package in the case of air shipments of hazardous materials consistent with a similar requirement in the ICAO TI. DGAC notes that the ICAO provision predates harmonization of the HMR with the international regulations in the early 1990s and questions the need to adopt this requirement at this time. In the preamble PHMSA states, “We are not striving to make the HMR identical to the international regulations but rather to remove or avoid potential barriers to international transportation.” Clearly, this difference has been longstanding and in light of PHMSA’s statement, DGAC questions the need to adopt the provision at this time.

DGAC opposes adoption of this new requirement. DGAC is not aware of problems caused by the differing ICAO and HMR requirements and questions the safety basis for the change. Further, while creating harmony between the HMR and the ICAO TI requirement, the change creates disharmony between the shipping paper requirements for domestic air shipment and shipment by other modes. Whereas, the current requirement to provide a single amount for the shipment is now satisfactory for all modes moving in domestic commerce, the proposal would result in the need for different shipping paper descriptions. Further, we note that the requirements are complex.

While the preamble analysis concludes that there is no net increase in paperwork burden hours, DGAC does not agree. The cost may be substantial and we see no safety basis for the change. The proposal would require additional changes to computer systems and considerable lead time would be needed to facilitate implementation. Should PHMSA decide to proceed with this change, considerable time should be given to allow orderly changes to computer based systems. While we do not have an estimate of the potential additional costs of the change, we believe them to be substantial.

The Dangerous Goods Advisory Council (DGAC) appreciates the opportunity to comments on the HM-215I NPRM.

Sincerely,

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

Michael Morrissette
President