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RSPA-2003-15327-11



**American Chemistry
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FAX Cover Sheet

To: U.S. DOT Dockets Management System

Company Name: U.S. DOT

Fax Number: 202-493-2251

From: Tom Schick

Description: American Chemistry Council comments in docket number: RSPA-03-15327
(HM-206B)

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August 11, 2003

Dockets Management System
U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W., Room PL-401
Washington, DC 20590-0001

Re: Docket No. RSPA-03-15327 (HM-206B)

Dockets Management System:

Enclosed are the comments of the American Chemistry Council in this docket. If you have any questions about these comments, please contact me at 703-741-5172 or Nancy White at 703-741-5256.

Sincerely,

A handwritten signature in black ink that reads "Tom E. Schick". The signature is written in a cursive, slightly slanted style.

Thomas E. Schick
Distribution Counsel

enclosure

also sent by fax to 202-493-2251



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BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

DOCKET NO. RSPA-03-15327 (HM-206B)

HAZARDOUS MATERIALS: CHANGES TO THE HAZARD COMMUNICATION
REQUIREMENTS, INCLUDING REVISION OF DESIGN OF LABELS AND PLACARDS
FOR MATERIALS POISONOUS BY INHALATION (PIH)

COMMENTS OF THE
AMERICAN CHEMISTRY COUNCIL

AUGUST 11, 2003

INTRODUCTION

The American Chemistry Council (the Council) represents the leading companies engaged in the business of chemistry. The business of chemistry is a \$462 billion enterprise and a key element of the nation's economy. It is America's #1 exporter - with more than \$81 billion in exports in 2001. Council members represent more than 90% of the productive capacity of basic industrial chemicals in the United States and a large portion of the regulated hazardous materials shipping community. The Council is committed to continuously improve the safety and efficiency of hazardous materials transportation.

On June 11, 2003, the Department of Transportation Research and Special Programs Administration (RSPA) published a notice of proposed rulemaking (NPRM) HM-206B, "Hazardous Materials: Changes to the Hazard Communication Requirements, Including revision of Design of Labels and Placards for Materials Poisonous by Inhalation (PIH)." (68 Fed. Reg. 34880-34897). This rule proposes changes to the hazard communication requirements of the Hazardous Materials Regulations (HMR), including:

- Clarify §172.604 to state that the use of beeper numbers and call-back systems does not meet the emergency response telephone number requirement for "immediate access;" and
- Revise the regulations on the PIH placard.

The intended benefit of these changes is to improve safety of emergency responders, the public, and the hazardous materials transport community.

SPECIFIC COMMENTS

ACC appreciates this opportunity to provide comments to RSPA on its notice of proposed rulemaking. Our comments follow.

Emergency Response Telephone Number Requirements

RSPA proposes to clarify §172.604 to state that the use of beeper numbers and call-back systems does not meet the emergency response telephone number requirement for "immediate access." ACC has long understood DOT's intent that the number shown on the shipping papers should connect the caller directly to an individual with immediate access to information regarding the specific product(s) covered by the shipping papers on which the emergency number appears, or immediate access to a person who possesses such knowledge and information. First responders and those in the transport industry need accurate and immediate information in order to properly mitigate an incident while also protecting those responding to the incident. For this reason, ACC also agrees with DOT that direct landline telephone provides the most reliable destination connection.

Further, it is also understood that some first responders may or may not possess extensive hazardous materials incident emergency response training or experience and may need guidance in identifying what information is needed to take action. For that reason, ACC believes the person answering the emergency telephone should be properly trained and/or have immediate access to trained and hazardous materials qualified individuals that can assist the caller in obtaining the needed information.

Materials Poisonous by Inhalation (PIH)

Since October 1, 2001, RSPA has required the use of a PIH label and placard for both liquids (Division 6.1) and gases (Division 2.3) that are PIH materials. In HM-206B, RSPA is proposing to revise the regulations on the PIH placard. The purpose of these changes is to enhance the ability of emergency responders and transport workers to identify the PIH materials. ACC agrees that essential emergency response information must be quickly and effectively communicated to emergency responders and transport workers. Nevertheless, ACC questions the timing of RSPA's proposal in light of recent United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNCETDG) activity and ongoing placarding studies.

ACC remains concerned that the existing DOT PIH placard requirement continues to perpetuate non-uniformity on companies that import and export PIH materials. In order to ensure compliance with current DOT and UNCETDG requirements simultaneously, shippers are forced to apply both DOT and UN style markings, or to re-label and placard packages at port of embarkation or debarkation. ACC is aware that DOT raised this issue of the PIH placard with the UNCETDG at the July 2003 meetings and has been asked to prepare a proposal for

consideration. ACC questions whether DOT should continue to proceed with this rulemaking until such time as the outcome of efforts at the UNCETDG are completed.

Additionally, ACC is aware that on July 25, 2003, TSA held a workshop to address the issue of placards on rail cars. The workshop brought together the emergency response community and the railroads to discuss whether placards should be replaced by alternate hazard communications systems. ACC has not taken a position on the elimination of placards. Whether or not to remove placards is best determined by emergency responders and public safety agencies (fire and emergency medical services, law enforcement, etc.), for which placards were originally developed. However, ACC does question the timing of RSPA's proposed change to the PIH placard considering the TSA study is looking at alternate hazard communication systems.

Furthermore, ACC is aware that RSPA recently completed a study of the role of hazardous material placards in transportation safety and security. It is our understanding that this study concludes that the existing placards system should be retained. The study further concludes that potential alternatives to placards in specific high risk situations should be considered while factoring in cost, training, and international trade issues, etc., that would be impacted if the system were to be changed.

CONCLUSION

ACC appreciates the efforts of RSPA in issuing this Notice of Proposed Rulemaking. We respectfully request the consideration of our comments and support the intent of RSPA's proposed changes to improve hazard communication and emergency response. If you have any questions or would like more information, please contact Nancy White (703) 742-5256.

Thank you.