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Dangerous Goods Advisory Council

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August 26, 2004

Mr. Edward Mazullo, Director
Office of Hazardous Materials Standards (DHM-10)
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh St., SW
Washington, DC 20590-0001

OCT 13 09:12:06
U.S. DEPARTMENT OF TRANSPORTATION

Re: Petition for rulemaking to resolve differences between the IMDG Code and the Hazardous Materials Regulations

Dear Mr. Mazullo,

As you know, a shipment of hazardous material entering the U.S. for delivery from a foreign origin must be in compliance with the laws and regulations of the U.S. at the time the shipment enters the territorial waters of the U.S. Conversely, a shipment of hazardous material leaving the U.S. for delivery to a foreign destination must be in compliance with the laws and regulations of the U.S. until the shipment passes out of the territorial waters of the U.S. Two U.S. classifications that tend to cause difficulties with international shipments are combustible liquids in bulk packages and PIH materials. Several attempts by the U.S. to harmonize these differences at the U.N. Committee of Experts have been unsuccessful and we do not anticipate the situation will improve in the future.

To ease the problems frequently encountered with shipments entering and exiting the U.S., we suggest several changes to the HMR. In essence, we propose a new definition, "Single Port Area (including contiguous harbors)," be added to § 171.8, and §§ 171.12(c) and 176.5 be revised to accommodate the differing IMDG Code/HMR requirements (description and placarding) within a single port area. Inbound or outbound shipments could therefore be brought into compliance within the port area. Presently there is no definition within the HMR for "single port area" so this addition would help clarify the geographic area. We petition for the following revisions to the HMR:

Proposed revision of § 171.8 Definitions and abbreviations (insert in alphabetical order):

"Single Port Area (including contiguous harbors)" means a facility or a group of facilities designated for and equipped to handle the loading and unloading of freight to or from marine vessels – whether liquid, solid or gas – and which is under common administration.

Proposed revision of § 171.12(c) Use of IMDG Code in port areas:

“171.12(c) *Use of IMDG Code in port areas.* Section 171.2 notwithstanding, a hazardous material (other than Division 1.1 or 1.2 or Class 7) *regulated as a hazardous material under*

this subchapter but not as dangerous goods under the IMDG Code, or a material regulated as dangerous goods under the IMDG Code but not subject to regulation under this subchapter, being imported into or exported from the United States, or passing through the United States in the course of being shipped between places outside the United States, may be offered and accepted for transportation and transported by motor vehicle within a single port area (including contiguous harbors) when *described, packaged, marked, classed, labeled, placarded,* stowed and segregated in accordance with the IMDG Code, if the hazardous material is offered and accepted in accordance with the requirements of Subparts C and F of part 172 of this subchapter ~~pertaining to shipping papers and placarding~~ *consignment* otherwise conforms to the applicable requirements of Part 176 of this subchapter. The requirement in § 172.201(d) of this subchapter for an emergency telephone number does not apply to shipments made in accordance with the IMDG Code if the hazardous material:

- (1) Is not offloaded from the vessel;
- (2) Is offloaded between ocean vessels at a U.S. port facility without being transported by public highway.”

Proposed revision of § 176.5 Import and Export shipments:

“(a) Except as provided in paragraph (b) of this section, *and subject to the limitations set forth in paragraph 171.12(c),* this subchapter applies to each domestic and foreign vessel when in the navigable waters of the United States, regardless of its character, tonnage, size or service and whether self-propelled or not, whether arriving or departing, underway, moored, anchored, aground or while in dry dock.”

These changes, if adopted, would facilitate compliance and enforcement while improving the efficiency of the international transport of goods. Please contact us should you wish to discuss this proposal in more detail.

Sincerely,



Alan I. Roberts
President