



Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

June 22, 2016

Docket Services
U.S. Department of Transportation
1200 New Jersey Avenue SE.
West Building, Ground Floor
Room W12-140
Routing Symbol M-30
Washington, DC 20590

RE: Docket Number: PHMSA-2010-0019
Hazardous Materials: Incorporation of ASME Code Section XII and the National Board Inspection Code

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Supplemental Notice of Proposed Rulemaking, Docket No. PHMSA-2010-0019.

Established in 1982, CVSA works to improve commercial motor vehicle safety and enforcement on our nation's highways by bringing federal, state, provincial, territorial and local truck and bus safety enforcement agencies together with industry representatives in the United States (U.S.), Canada and Mexico. Every state and territory in the U.S., all Canadian provinces and territories, and the country of Mexico are CVSA members. In addition, CVSA has several hundred associate members committed to helping the Alliance achieve its mission: to improve commercial motor vehicle safety and uniformity throughout the U.S., Canada and Mexico by providing guidance and education to enforcement, industry and policy makers.

PHMSA is proposing to amend the Hazardous Materials Regulations to allow the use of the 2015 edition of the American Society of Mechanical Engineers (ASME) *Boiler and Pressure Vessel Code, Section XII – Rules for Construction and Continued Service of Transport Tanks* for the construction and continued service of cargo tank motor vehicles (CTMVs), cryogenic portable tanks, and multi-unit tank car tanks. PHMSA also proposes to authorize the use of the 2015 edition of the National Board of Boiler and Pressure Vessel Inspectors *National Board Inspection Code* as it applies to the continued service of CTMVs, cryogenic portable tanks, and ton tanks constructed to ASME *Section XII* standards, as well as for existing CTMVs constructed in accordance with the current hazardous materials regulations.

CVSA supports the incorporation by reference of technical standards developed by nongovernment organizations, provided that the U.S. Department of Transportation requires access (including electronic access) for enforcement and government purposes, at no charge, to materials, such as technical standards developed by non-governmental organizations, incorporated by reference into regulation.

When those in industry develop standards that can be used by government it is appropriate to do so, eliminating costly, duplicative efforts and the possibility of competing standards that are similar but not identical. However, if care is not taken in how that incorporation by reference is designed, it could result in materials not being accessible by government and enforcement. Entities may develop the standards and then charge prohibitive fees in order to access them, making them, in effect, inaccessible for state and federal government officials.

If government and enforcement personnel are expected to enforce and understand the regulations and the terms and standards used within them, they have to have access to those materials, including any associated training and related materials. If there is regulation that references a privately developed standard, that standard should be made available to those tasked with enforcing the regulation at no charge. Requiring access to materials for enforcement and government purposes, at no charge, will help ensure that enforcement personnel have access to the materials they need to safely and effectively perform their duties.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the opportunity to comment on this proposal and the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,

A handwritten signature in black ink, appearing to read "Collin B. Mooney". The signature is written in a cursive, flowing style.

Collin B. Mooney, CAE
Executive Director