



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

February 17, 2017

Docket Services
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building, Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: Docket Number: PHMSA-2016-0079

Hazardous Materials: PIPES Act Requirements for Identification Numbers on Cargo Tanks Containing Petroleum Based Fuel

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the Pipeline and Hazardous Materials Safety Administration (PHMSA) Advanced Notice of Proposed Rulemaking (ANPRM) on Hazardous Materials: PIPES Act Requirements for Identification Numbers on Cargo Tanks Containing Petroleum Based Fuel, Docket No. PHMSA-2016-0079.

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is 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.

General Comments:

In October 2015, CVSA submitted a petition to PHMSA requesting rulemaking to correct Title 49 C.F.R. § 172.336 of the Hazardous Materials Regulations (HMR) by inserting § 172.336(c)(4) and (5). There, we cited burdensome training costs and the possibility of discrepancies in enforcement as reasons to reinstate sections (4) and (5). In responding to the current ANPRM in which PHMSA solicits public comment on possible changes to the marking of cargo tanks transporting hazardous materials, we reiterate concerns regarding lack of uniformity and an unjustifiable training burden on enforcement and ask the agency to address the issues identified in responses to the questions posed in the ANPRM before issuing a notice of proposed rulemaking (NPRM).

CVSA Responses to PHMSA Questions

1. Question: PHMSA seeks comment regarding whether carriers currently mark cargo tanks with the identification number of a petroleum distillate fuel, including gasoline and gasohol, when that material is not present in the cargo tank. (Page 83193)

CVSA Response: Currently, there is a national standard of enforcement targeting identification numbers on cargo carriers transporting hazardous materials such as petroleum distillate fuel. While states undergo initial training on the regulations, this initial training is conducted by the Federal Motor Carrier Safety Administration (FMCSA) through the National Training Center (NTC). However, many inspectors trained under the old standard have not received refresher training and may continue allowing carriers to mark cargo tanks with the identification number of the fuel with the lowest flashpoint even when that type of fuel is not present in the cargo tank. Without a national training campaign and standardized enforcement, there will be instances of carriers continuing to employ the outdated practice of displaying identification numbers for a particular fuel—even when the indicated material is not present—without facing consequences.


2. Question: PHMSA requests comment on the potential costs of modifying the current regulatory requirements related to hazardous materials communication on cargo tanks. (Page 83193)

CVSA Response: CVSA has concerns regarding the unjustifiable training burden on enforcement that deleting § 172.336(c)(4) and (5) may create. As mentioned above, additional inspector training is needed to appropriately enforce regulatory changes. These costs would need to be factored into departments' annual training budgets. Because refresher training activities are conducted on a state-by-state basis, PHMSA must ensure that training on the new regulatory requirement for cargo tank identification is included in the curriculum each state uses in order to mitigate instances where inspectors in some states issue citations for noncompliance with cargo tank identifications while inspectors in other states do not.

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,



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Commercial Vehicle Safety Alliance