



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

October 24, 2016

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-2015-0273
Hazardous Materials: Harmonization With International Standards (RRR)

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the Pipeline and Hazardous Materials Safety Administration (PHMSA) Notice of Proposed Rulemaking on Hazardous Materials: Harmonization With International Standards (RRR), Docket No. PHMSA-2015-0273.

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

CVSA supports PHMSA's goal of harmonization of the Hazardous Materials Regulations (HMR) to maintain consistency with international regulations and standards. Complying with multiple standards can be costly, increase frequency of technical errors and increase the time required to train entities complying with multiple international standards. In contrast, harmonizing the HMRs can relieve or eliminate these obstacles to maintaining consistency in the packaging, labeling and shipping of hazardous materials.

Concerns and Issues

While CVSA is supportive of the agency's proposal, we have identified two areas where potential improvements can be made. First, although CVSA supports the incorporation by reference of technical standards developed by non-government organizations, 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. This is critical for any standards, but even more so for those in the hazardous materials arena, given the increased risk associated with these movements. 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. To address this, CVSA recommends

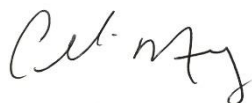
that PHMSA require access (including electronic access and print media) for enforcement and government purposes, at no charge, to materials, such as technical standards developed by non-governmental organizations, incorporated by reference into regulation.

In addition, CVSA has concerns about the ability of states to comply with the Jan. 1, 2017 effective date for the harmonization proposal. States do not have the authority to enforce federal regulations and adoption processes vary by jurisdiction. While some states can adopt federal changes automatically, other states require changes go through an administrative process and still others require a legislative session. Indeed, four state legislatures—Montana, Nevada, North Dakota and Texas—hold sessions every other year. For these states, two years is needed to approve and implement regulatory changes. By setting an effective date only a few months after initiating its proposal, PHMSA overlooks the process required to achieve full adoption at the state level, as well as the additional time needed to train inspectors on the new standards once state implementation is complete. Although CVSA supports PHMSA's proposal to harmonize hazardous materials regulations as quickly as possible so that U.S. companies will not be at an economic disadvantage because of their need to comply with multiple sets of regulations, we suggest a broader timeline to allow adequate time for state adoption of federal regulatory changes as well as for training of law enforcement to promote the safe transport of hazardous materials on U.S. roadways.

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'.

Collin B. Mooney, CAE
Executive Director