



THE CHLORINE INSTITUTE

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October 17, 2011

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

RE: PHMSA-2010-0018 (HM-216B); Proposed Rule

The Chlorine Institute (CI) is a 200-member, not-for-profit trade association of chlor-alkali producers worldwide, as well as packagers, distributors, users, and suppliers. The Institute's mission is the promotion of safety and the protection of human health and the environment in the manufacture, distribution and use of chlorine, sodium hydroxide, potassium hydroxide and sodium hypochlorite, plus the distribution and use of hydrogen chloride. The Institute's North American Producer members account for more than 93 percent of the total chlorine production capacity of the U.S., Canada, and Mexico.

These comments are submitted in response to the Federal Register Notice dated August 18, 2011 regarding Docket PHMSA-2010-0018 (HM-216B). CI supports the efforts of the U.S. Department of Transportation (DOT) to enhance safety and further advancements in safety technologies and procedures through DOT-approved special permits which provide equivalent levels of safety. Numerous CI members operate using various special permits, including those used for the rail transportation of chlorine and other CI mission chemicals that ensure the chlor-alkali industry continues being among the safest industries in the country.

It is encouraging to see that the Pipeline and Hazardous Materials Safety Administration (PHMSA) is proposing to incorporate into the regulations certain widely used or long-standing special permits that have general applicability and established safety records, some of which CI members use or are a party to. In particular, CI has specific interest and comments regarding the following proposed special permits to be incorporated:

- DOT-SP-12095 authorizing the use of the Alternative Tank Car Qualification Program (TCQ-1);
- DOT-SP-14622 authorizing an alternative start-to-discharge pressure requirement for tank cars containing chlorine; and
- The various special permits allowing a gross rail load in excess of 263,000 pounds but not exceeding 286,000 pounds for tank cars transporting certain poisonous-by-inhalation materials upon FRA approval.

Alternative Tank Car Qualification Program (TCQ-1)

CI supports the incorporation of this alternative tank car qualification program, although we do have some concern with specific changes planned for 49 CFR Part 180. TCQ-1 provides a minimally acceptable framework for owners to qualify their tank cars, which was developed in cooperation between the Federal Railroad Administration (FRA) and the railroad industry, and it references various sections and appendices of the Association of American Railroads' (AAR) Tank Car Manual. In certain sections under 49 CFR Part 180, PHMSA proposes rewording to encompass the entire AAR Tank Car Manual.

The Tank Car Manual provides industry standards for specific criteria that should be qualified, as well as best practices on how tank car qualification can be achieved. In addition to qualification standards, the Tank Car Manual also includes other tank car information that is not relevant to the qualification process. Because some elements of the Tank Car Manual are beyond the scope of qualification, and therefore are not applicable to TCQ-1, the entire manual should not be encompassed within the hazardous materials regulations (HMR). PHMSA should also not incorporate information that prescribes procedures which tank owners must perform to achieve qualification.

Codifying qualification procedures in the HMR would only limit industry's ability to continuously improve processes and efficiency. Therefore, PHMSA should only incorporate aspects of the Tank Car Manual into the HMR that are relevant to the specific criteria of "what" should be qualified but not "how" it should be qualified.

Regarding the incorporation of this special permit, PHMSA also proposes to put the obligation to ensure compliance on the owner of the tank car (or tank car component) rather than the tank car facility. We believe PHMSA's intent of this change is for the owner to ensure that the facilities understand and follow the owner's procedures appropriately. Although there is value to this owner responsibility, there are cases where the actual owner may not control the movement of the tank car nor have knowledge of the repairs. The proposed language should be clarified to address such cases as this. CI also feels that language should be added to guarantee that the tank car facility is assigned the responsibility to follow federal regulations and AAR standards, to obtain the owner's procedures and to follow the procedures accordingly.

Alternative Start-to-Discharge Pressure Requirements for Tank Cars Containing Chlorine

CI supports incorporating the special permit which allows the alternative start-to-discharge pressure of 360 psi for chlorine tank cars equipped with combination pressure relief devices. A CI member was the original applicant of this special permit based on its history of operating its tank cars safely in a manner similar to that specified in the special permit. CI was involved in FRA's evaluation of the original application and provided input that we had not received any reports of incidents related to this operation. We also believed that the pressure relief valve was sized appropriately for the required design. Today, CI still finds that a set pressure of 360 psi is appropriate and safe for the required design and supports incorporating it into the HMR.

Approval for Increased Gross Weight on Rail Tank Cars Containing PIH Materials

CI was heavily involved in the efforts to improve tank car design for poisonous-by-inhalation (PIH) materials and generally supported interim standards that were incorporated into the HMR (i.e. HM-246). Since that time, some CI members have ordered new interim PIH tank cars that are HM-246 compliant. Safety features added to these tank cars result in gross weights in excess of 263,000 pounds but not above 286,000 pounds when loaded to 90 tons. In order to continue safety advancements in the PIH transportation community and provide incentive for more PIH shippers to transport their products in HM-246 compliant tank cars, it only makes sense to include this special permit as an approved operation under the HMR.

Closing Remarks

The Chlorine Institute's mission is aligned with that of PHMSA's with regard to protecting the public from the risks associated with the transportation of hazardous materials. The chlor-alkali industry works hard to continuously improve safety by making advancements in design and operation related to the transportation of its products, particularly by rail. Our industry appreciates the opportunity to implement these advancements, which do not comply with the HMR, through the DOT special permits program. After long-term use of special permits without incident, it's a natural step to incorporate particular special permit features into the HMR so that the broader industry may have the incentive to enhance their own safety efforts. CI supports PHMSA's proposal to incorporate into the regulations the specified special permits mentioned in this docket, but with note of the above-mentioned concerns.

Sincerely,

A handwritten signature in black ink that reads "Robyn Heald". The signature is written in a cursive, flowing style.

Robyn Heald
Director, Transportation and Incident Analysis
The Chlorine Institute