National Association of Chemical Distributors

1560 Wilson Boulevard, Suite 1250 ▬ Arlington, VA 22209 ▬ 703-527-NACD (6223) ▬ FAX 703-527-7747

September 14, 2007

U.S. Department of Transportation
Docket Operations
M-30
West Building
Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: DOCKET NO. PHMSA-2007-27329 (HM-233A)

Dockets Section:

This letter responds to the *Federal Register* notice published July 16, 2007, regarding docket PHMSA-2007-27329 on HM-233A, Hazardous Materials: Conversion of Special Permits into Regulations of General Applicability.

NACD is an international trade association headquartered in Arlington, Virginia, with more than 250 chemical distribution companies in the United States and Canada. These companies represent between 80% and 90% of the chemical distribution facilities in the nation and more than 90% of the industry's gross revenue. NACD member companies have established themselves as leaders in health, safety, security, and environmental performance through implementation of the Responsible Distribution Process℠ (RDP), established in 1991 as a condition of membership in NACD. RDP is a third-party verified management practice.

Members of NACD operate in every region of the country through approximately 1500 facilities. The membership includes small businesses as well as regional and national companies. Hazardous materials transportation is an integral part of the chemical distribution business. In 2005, NACD members made 6.5 million chemical distribution shipments, were responsible for 46 billion pounds of delivered product, and drove 172 million miles while distributing chemicals.

NACD appreciates the opportunity to recommend existing DOT Special Permits for inclusion into the Hazardous Materials Regulations (HMR). As stated in the notice, including special permits that are widely used and have demonstrated safety records in the regulations will provide significant regulatory relief for grantees as well has those who have not yet applied to take advantage of them.

NACD recommends the following three Special Permits for inclusion into the HMR:

DOT-SP 12412 – *Authorizes the discharge of liquid hazardous materials from certain UN Intermediate Bulk Containers (IBCs) and DOT Specification portable tanks without removing them from the vehicle on which they are transported*

DOT-SP 12412 is widely used, with 175 current active grantees, including many NACD members. The special permit contains extensive safety control measures in the areas of packaging, testing, and operational controls and, as a result, has a demonstrated safety record. Inclusion of DOT-SP 12412 in the HMR would significantly reduce the paperwork involved with applying for party status and renewals. It would provide additional relief for chemical distributors that offer covered materials from multiple locations as they would no longer need to maintain a copy of the permit at each facility.

DOT-SP 12443 – *Authorizes tank cars containing specified hazardous materials to remain standing with unloading connections attached when no product is being transferred, provided that a minimal level of monitoring is maintained*

DOT-SP 12443 applies to most hazard classes and is widely used. This special permit lists detailed safety and security measures that must be in place including preventing unauthorized access to the track where the tank car is located, designating an employee to be responsible for on-site monitoring, and requiring that tank car and facility shutoff valves be closed and secured. In addition, each facility using the special permit must have detailed safety procedures on file and must establish and maintain relations with emergency responders and local officials. Inclusion of DOT-SP 12443 in the HMR would significantly reduce the paperwork involved with applying for party status and renewals. This would also apply the strong safety and security measures to those who may not yet have applied to take advantage of the Special Permit.

DOT-SP 11761 – *Authorizes the transportation in commerce of certain DOT specification and AAR specification tank cars, containing a residue of Class 8 materials, that have been inspected prior to offering under a modified inspection program*

DOT-SP 11761 contains extensive safety control measures in the areas of packaging, testing, and operational controls and, as a result, has a demonstrated safety record. The shipper must conduct a visual inspection of each car containing covered residue, but does not have to remove the frangible disk for inspection. This is beneficial because it reduces the chance of the frangible disk being damaged. In addition, inclusion of DOT-SP 11761would reduce the paperwork involved with applying for party status and renewals.

NACD further recommends that the following three Special Permits be consolidated:

DOT-SP 10878 – *Authorizes the manufacture, mark, sale, and use of certain non-DOT specification fiberglass reinforced plastic (FRP) cargo tank motor vehicles for use in the transportation in commerce of certain Class 8 liquids*

DOT-SP 11903 – *Authorizes the manufacture, mark, sale, and use of non-DOT specification cargo tank motor vehicles constructed from glass fiber reinforced plastics (GFRP) conforming with all regulations applicable to a DOT 407 or DOT 412 cargo tank motor vehicle except as specified, for the transportation in commerce of certain Class 3, 6, 8, and 9 materials*

DOT-SP 12516 – *Authorizes the manufacture, mark, sale and use of a non-DOT specification glass fiber reinforced plastic (GFRP) cargo tank conforming with all regulations applicable to a DOT Specification 412/407, except as specified, for the transportation in commerce of certain Class 3, 6, 8, and 9 materials*

These are all essentially the same special permit, with different numbers as each one is granted to a separate fiberglass cargo tank supplier. DOT requires that all special permit numbers be noted on the delivery ticket or shipping paper for the cargo being shipped. This causes significant administrative burdens for hazardous materials shippers such as chemical distributors who use these cargo tanks. These chemical distributors typically use cargo tanks from multiple suppliers. The problem is that there is no way to know which shipment will go in which cargo tanker until the HazMat driver prepares to depart the facility with his/her paperwork for that day. Therefore, the driver must manually write the DOT-SP number on every ticket, which is not only cumbersome, but an antiquated procedure. Consolidating these three special permits would provide significant regulatory relief to distributors who use fiberglass cargo tanks from multiple suppliers while maintaining all of the safety requirements in the Special Permits.

Thank you for the opportunity to provide these recommendations. If you have any questions, or require any additional information, please do not hesitate to contact me at 703/527-6223.

Sincerely,

Jennifer Gibson
Vice President, Government & Public Affairs
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS
1560 Wilson Boulevard
Suite 1250
Arlington, VA 22209