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Docket Operations
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West Building
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Attn: Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids [Docket Number PHMSA-2009-0303 (HM-213D)]

These comments respond to the notice of proposed rulemaking (NPRM) published in the January 27, 2011 *Federal Register* issue regarding Docket Number PHMSA-2009-0303 (HM-213D), Hazardous Materials: Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids.

The National Association of Chemical Distributors (NACD) is an international association of more than 380 chemical distributors and their supply-chain partners. NACD represents more than 85% of the chemical distribution capacity in the nation and 90% of the industry's gross revenue. Members of NACD operate in every region of the country through approximately 1300 facilities. The membership includes small businesses as well as many regional and national companies.

Hazardous materials transportation is an integral part of the chemical distribution business. In 2009, NACD members were responsible for the delivery of over 75 billion pounds chemicals and drove more than 160 million miles in the distribution of these products.

NACD members meet the highest standards in safety and performance through mandatory participation in Responsible Distribution, NACD's third-party verified environmental, health, safety, and security (EHS&S) program. Through Responsible Distribution, NACD members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal operations. In 2009, NACD members achieved a handling/storage safety record of 99.9997% and averaged just one traffic incident in every 700,000 miles driven.

NACD has concerns about the PHMSA NPRM to prohibit the transportation of flammable liquids in external product piping, known as wetlines, on DOT specification cargo tank motor vehicles.

The primary concern is that such a rule would be difficult to enforce and would interfere with distributors' ability to deliver products to their customers. If adopted as proposed, the rule would allow a residue quantity of no more than one liter (0.26 gallon or 33 ounces) to remain in each pipe. It would be difficult for roadside inspectors to check these pipes to verify that they contain only these minimal amounts, and these inspections would create additional complications.

The use of sight gages will not suffice because it is not feasible to accurately determine the content of the pipes by examining these devices. In addition the glass on sight gages can easily be broken by road debris or temperature extremes.

Because of the inadequacy of sight gages, inspectors would need to break the seals on the compartments in order to check the contents of the pipes. These seals are critical in order to demonstrate to customers that the contents have not been subject to tampering. If inspectors must break these seals to check the contents of the pipes, distributors would not be able to prove to their customers that the products had not been subject to tampering. This would be particularly problematic when dealing with food grade products.

NACD believes that the cost of adopting the NPRM would not justify the limited benefits. In addition to the problems with inspections and product delivery, there would be costs of phasing out and retrofitting the tanks, including the time the vehicles would be out of service while this is done and the safety risks to the technicians completing the retrofits. If the purpose of the retrofit is to place protective structures around the piping to allow for continued "wet piping," the increase in weight of the equipment would reduce the payload of the trailers. This would have to be offset by placing more trucks in service, which would increase traffic and congestion on the roads. With the current shortage of experienced drivers, more new drivers would have to be hired and trained to handle these additional trucks. These less experienced drivers would introduce more risk on the highways.

In 2004, DOT published a similar proposal to prohibit the transportation of flammable liquids in wetlines. As stated in the January 27, 2011 NPRM, the Department withdrew the proposal after concluding that "quantifiable benefits accruing from such a prohibition would not justify corresponding costs." According to DOT's own statistics, the number of wetlines incidents in relation to the number of cargo tank shipments of flammable liquids remains extremely low. This raises the question of what has changed between 2006, when the previous wetlines proposal was withdrawn and now.

This NPRM is inconsistent with the regulatory reform initiative announced by the President earlier this year, which calls for a review and reconsideration of unnecessary and overly burdensome regulations.

Thank you for the opportunity to comment on this issue. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

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