



COMPRESSED GAS ASSOCIATION

4221 Walney Road, 5th Floor ■ Chantilly, VA 20151-2923

(703) 788-2700 ■ FAX: (703) 961-1831 ■ E-mail: cga@cganet.com ■ Web Site: www.cganet.com

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Docket Management System
U.S. Department of Transportation
400 Seventh Street S.W.
Nassif Building, Room PL-402
Washington, DC 20590-0001

Docket No: PHMSA-2005-22987 (HM-238)
RIN No: 2137-AE6

Dear Sir/Madam,

The Compressed Gas Association (CGA), founded in 1913, represents over one hundred fifty member companies worldwide in the development of safety standards and safe practices in the industrial gas industry. The association represents all facets of the industry – manufacturers, distributors, suppliers, and transporters. Our committees create technical specifications, safety standards, seminars, training and educational materials; and also work with government agencies to formulate responsible regulations and standards and to promote compliance with these regulations and standards.

CGA member firms manufacture and distribute industrial gases such as hydrogen, nitrogen, nitrous oxide, and oxygen as well as specialty gases in cylinders and bulk containers. Accordingly, our members have a strong interest in regulations governing our products and the packages in which we ship those products.

CGA offers the following comments addressing specific questions listed in the ANPRM HM-238:

Question #9

Whether enhanced safety or security requirements for storage during transportation should also apply to other types of hazardous materials (e.g. materials toxic by inhalation) and, if no, which hazardous materials?

The industrial gas industry has made many enhancements to the security of transporting and storage of materials toxic by inhalation. Examples include:

- Placing highly toxic gases in security cages on its private fleet trucks
- Utilizing driver teams on routes to keep PIH materials moving and minimize transit times
- Designating “safe havens” for trips when drivers must stop for HOS breaks, etc.
- Worked with “for-hire” common carriers in advance of pick-ups to enable them to build compatible trailers that will keep the PIH materials moving in their system and minimize storage time
- Established “security officers” with common carriers transporting highly toxic materials to put procedures in place to handle a security incident.

The recent Safety Permit requirement for carriers of highly toxic Zone A dangerous goods has added security requirements such as driver communications with their carrier, satisfactory safety rating and out-of-service metrics.

Section 177.800(d) of 49 CFR already states that all shipments of hazardous materials must be transported without unnecessary delivery from time of loading until its final unloading destination. Many shippers are now tracking their shipments of highly toxic materials offered to common carriers.

Depending on the timing and routing of the highly toxic materials, there may be times where the shipment is not under active shipping papers. For example, a shipper transports a shipment of hazardous goods to a distribution center (DC). The shipment stays at the DC for a day before transport to the ultimate customer. The time the dangerous good is at the DC is no longer under active shipping papers. As per HM-223, PHMSA would not have jurisdiction during that period of time.

As you can see, the compressed gas industry has taken many steps to put in place enhanced security of its highly toxic materials to minimize security risks and storage time during transportation.

Question #10

Whether enhanced safety or security requirements for storage during transport should apply to certain modes or all modes of transportation?

One size does not fit all modes regarding security regulations. Each specific mode presently has security regulations in place that adequately provide protection to dangerous goods shipments during transportation and storage in transportation. Safety Plans required by HM-232 covering facility security by the carriers is an example.

Question #11

Should aggregate limits be considered at a single facility during transport of the highly hazardous materials?

No, aggregate limits should not be considered at a single facility during transport of highly hazardous materials. This would cause more highly hazardous materials to be in the transportation system (on the roads, rails, etc.) even though they would be in smaller amounts.

If the highly hazardous materials are not under active shipping papers while being stored at a single facility, by DOT's own ruling (HM-223) they are no longer the regulatory body.

Highly hazardous materials are pre-specified to meet customer requirements and thus, not a lot is placed in storage on its way to the customer.

Question #12

Whether we should consider limits on the time that a shipment of explosives or other high hazard materials would be stored during transportation?

For highway shipments, 49 CFR 177.800(d) states "No unnecessary delay in movement of shipments." All shipment of hazardous materials must be transported without unnecessary delay, from send including the time commencement of the loading of the hazardous materials until its final unloading at destination.

DOT has also stated that anything should be deliverable within 10 days. This was their reason to require a shipping paper to be retained for 375 days before the recent change to the 2-year retention period.

Due to the above, no time limit should be placed on the storage during transportation of hazardous materials.

Question #15

Whether there are additional standards other than these outlined above that should be taken into consideration?

Additional standards are not needed to be taken into consideration. The following programs and regulations contribute to the security of dangerous goods during transportation and storage during transportation:

- Safety Permit regulation to transport highly toxic (Zone A) and bulk quantities of dangerous goods
- Risk Management Programs – regulate the amounts of highly toxic dangerous goods stored at a facility
- CDL hazmat endorsement
- Driver background checks
- State laws pertaining to dangerous goods transport

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Question #16

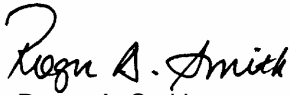
Whether development of an industry or standard regulation should be pursued in this area?

The CGA has already published CGA P-51, *Transportation Security Guidelines*, on April 12, 2004. This standard addresses security of highly toxic dangerous goods in transportation and in storage during transportation.

CGA appreciates the opportunity to comment on this ANPRM.

Very truly yours,

COMPRESSED GAS ASSOCIATION, INC

A handwritten signature in black ink that reads "Roger A. Smith". The signature is written in a cursive style with a large initial "R".

Roger A. Smith
Technical Director

cc: Ms. S. Gorsky, DOT
Mr. E. Mazzullo, DOT
Mr. C. Hochman, DOT
Mr. C. Johnson, CGA