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November 3, 2008

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

RE: PHMSA-06-25885
Hazardous Materials: Risk-Based Adjustment of Transportation Security Plan Requirements
Department Of Transportation
Pipeline and Hazardous Materials Safety Administration

Dear Sir or Madam:

The National Cotton Council (NCC) submits these comments in support of Department of Transportation's (DOT) NPRM (73 FR 52557; 9 Sep 2008) regarding risk-based adjustment of transportation security plan requirements.

The NCC represents producers who cultivate over 14 million acres of farmland. Annual cotton production of approximately 21 million, 480 lb bales is valued at more than \$5 billion at the farm gate, the point at which the producer sells. While a majority of the industry is concentrated in the 17 cotton-producing states, the downstream manufacturers of cotton apparel and home-furnishings are located in virtually every state. The industry and its suppliers, together with the cotton product manufacturers, account for more than 230,000 jobs in the U.S. In addition to the cotton fiber, cottonseed products are used for livestock feed, and cottonseed oil is used for food products ranging from margarine to salad dressing. While cotton's farm-gate value is significant, a more meaningful measure of cotton's value to the U.S. economy is its retail value. Taken collectively, the annual business revenue generated by cotton and its products in the U.S. economy is estimated to be in excess of \$100 billion.

The NCC supports the DOT proposal to reduce the list of materials subject to security plan requirements. In addition, the NCC supports the clarification of security planning, training, and documentation rules that reduce the burden on individuals and companies whose products are not the major security concerns of the DOT Hazardous Materials Regulations (HMR; 49 CFR parts 171-180).

The cotton industry welcomes the sensible approach DOT Pipeline and Hazardous Materials Safety Administration (PHMSA), in consultation with the Transportation Safety Administration (TSA) of the Department of Homeland Security (DHS), has proposed in its modifications to current security plan requirements governing the commercial transportation of hazardous materials by air, rail, vessel, and highway. NCC believes the approach DOT PHMSA takes in the proposal to revise HMR by raising quantity thresholds for several classes of materials before those materials trigger security plan requirements is correct and prudent. Raising quantity thresholds when assessing security risks for several classes of materials is a welcome regulatory change for individual operations and small business as well as companies involved in the production, storage, transportation and manufacture of cotton, cottonseed, and cotton products. The higher thresholds reduce these groups regulatory burden without altering the effectiveness of this regulation.

The raising of thresholds for some materials and the elimination of security plan requirements for other low risk materials will allow DOT PHMSA and TSA DHS to focus on materials and infrastructures that are at higher risk from terrorist attacks. The NCC believes the revised regulations will clarify who, what, when and at what levels specific materials are to be regulated by HMR. While many cotton industry participants are already exempt from most placarding, training and other provisions found in HMR, the inclusion of risk based adjustments to HMR should alleviate the burden associated with security planning, training, and documentation associated with unnecessarily restrictive and burdensome rules for those who were unjustifiably covered by previous regulations because of insignificant risk.

It appears that regulations governing the transportation of baled cotton and lint are clarified by HMR revisions. The NCC commends PHMSA for providing such guidance in the “Proposed Revisions To The List Of Hazardous Materials For Which Transportation Security Plans Will Be Required” table on pages 52561 and 52562 of the NPRM. The NCC, NCC’s members and others whose businesses depend on a healthy cotton industry support the proposed revisions eliminating all Class 9 listed materials in 49 CFR “Subpart B—Table of Hazardous Materials and Special Provisions § 172.101 Purpose and use of hazardous materials table” from security plan requirements. PHMSA–06–25885 provides relief for the cotton industry from security planning, training, and documentation rules for class 9 hazardous materials. Extending the thresholds for other classes of materials or in some cases eliminating HMR requirements altogether for certain classes of materials is an action that allows DOT PHMSA and TSA DHS to focus limited resources where those resources will do the most good.

However, 49 CFR § 172.101 continues to incorrectly list cotton as a hazardous material. As a result, the listing in 172.101 footnote 137 in “49 CFR § 172.102 Special provisions” needs to be updated based on recent scientific studies. While such amendments to 172.101 or 172.102 are not the intent of and beyond the scope of this proposed rule, the NCC intends to petition DOT for relief from the incorrect listing at a later date.

The NCC appreciates this opportunity to provide comment and commends the DOT’s and TSA’s comprehensive review of risk-based adjustments to transportation security plan requirements.

Respectfully,

A handwritten signature in black ink that reads "Dale W. Thompson". The signature is written in a cursive, flowing style.

Dale W. Thompson
Manager, Marketing & Processing Technology