



**Tym's LLC**  
721 Depot Drive  
Anchorage, AK 99501 USA  
+1-425-200-5355  
www.tymllc.com

November 20, 2024

Docket Management System  
U.S. Department of Transportation  
West Building, Ground Floor, Room 12-140  
Routing Symbol M-30  
1200 New Jersey Avenue SE  
Washington, DC 20590

RE: Docket No. PHMSA-2024-0041 (Notice No. 2024-13)  
Hazardous Materials: Information Collection Activities

Tym's LLC is pleased to provide comments on Docket No. PHMSA-2024-0041 regarding the development of general investigative questions that may be used by PHMSA's Office of Hazardous Materials Safety (OHMS) field operations personnel when investigating potential general safety issues. We appreciate publishing a supplemental 60-day notice to address stakeholder comments received and revisions to the initial questions proposed, based on feedback received. We also appreciate the effort to clarify the intent of the information collection.

Tym's LLC is a consulting firm specializing in 49CFR HMR compliance, industrial processes incorporating HazMat, and aircraft accident investigations. Our firm focuses primarily on small to medium-sized businesses within the aviation maintenance, repair, and overhaul (MRO) industry, an important and heavily regulated sector. Our customers, by nature of their small business status, have a proportionally higher burden of compliance, as compared to their peers.

The majority of aviation MRO companies are small and medium sized businesses. Most are also regulated entities of DOT PHMSA, and all of them are regulated by the FAA. According to the *2024 Global Fleet & MRO Market Forecast* prepared by Oliver Wyman on behalf of the Aeronautical Repair Station Association (ARSA), the global MRO market stands at \$103.9 Billion US dollars with small/medium enterprises accounting for 85% that MRO activity within the United States and 80% worldwide. In the United States alone, small/medium enterprises employ 184,881 maintenance employees. That doesn't account for others employed in a supporting role within the \$64.9 Billion US MRO industry. A link to the report can be found on the ARSA website: <https://arsa.org/market-assessment/>

The comments that follow are therefore framed in support of these and other impactful small businesses that rely on the HMR in their daily operations as shippers, carriers, and consumers of Hazardous Materials:

While we appreciate the premise that standardized questions, such as those outlined in the docket, would better "facilitate the agency's enforcement responsibilities," the notion that these questions are

“not related to the inspection of an individual company or entity for compliance with the hazardous materials regulations,” is fundamentally untrue.

We fear that these questions will be used to gather information for enforcement actions without informing “stakeholders” they are being investigated. We also believe that the information gathered during these “voluntary discussions” will be used to engage in formal investigations and inspections later, if not immediately, without protections normally afforded to regulated entities.

Each question posed in the docket can be directly linked to requirements within the HMR. Asking a regulated entity “which employees/departments are trained,” for example, has a “correct” and “incorrect” answer, based on the rules. A regulated entity answering the question “incorrectly” is incriminating and will open the entity to additional scrutiny, likely a formal investigation or inspection. Therefore, asking this question is an investigative action and both the regulated entity and agency personnel must be aware that such an investigation is occurring, even if it is disguised as something innocuous.

To argue otherwise would also assume that the agency will not move forward with a more “formal” investigation or inspection in the case an individual or company answers the questions in a way that demonstrates non-compliance. Is the agency prepared to ignore a dangerous act or forgo an investigation when non-compliance is found? No! It should not and must not. Therefore, let’s instead forgo the idea that these standardized questions are not related to ascertaining compliance, because that is what they are, or at least will be, if non-compliance is found.

We find evidence of this practice already in use by the agency. Routine compliance actions such as administrative renewals are often paired with full audits, or audits on unrelated regulatory areas, by the agency and the agency’s “modal partners.” This is obviously the prerogative of the agency and its partners, but the industry is aware that any contact with DOT PHMSA typically results in additional scrutiny both inside and outside of the original topic area. We believe the same would be true for these “general safety investigations.”

The agency’s desire to create a standardized list of questions for investigative purposes is reasonable. However, answering any questions outside an investigation would already be voluntary and the HMR already imposes substantial reporting and recordkeeping requirements on regulated entities. Our position is that these questions, as revised, are fair only when both parties acknowledge that an investigation and/or inspection is underway. Therefore, we reject the notion that the information gained from this activity has practical utility, as is presented in the docket.

As rule-followers, we applaud reasonable efforts to find and correct non-compliance among our peers. If we are to believe that the agency will not, or cannot, use the information gathered during the process outlined in the docket to act on non-compliance, it has no value. Instead, we encourage the agency to use information gained from ongoing and future investigations to “gather information about potential safety issues” instead of a less formal approach that appears to circumvent constitutional protections for those undergoing investigation by a federal agency.

Finally, the docket states: “The use of such general investigation questions would allow the agency to carry out its statutory responsibilities to protect public safety while minimizing the paperwork burden on regulated entities.” We disagree. We believe that well-trained agents, fully familiar with the HMR, who have experience in the industry to which they are assigned, and who actively engage with regulated

entities in good faith, is the best way to protect public safety and minimize the paperwork burden. A set of standardized questions, overly broad by nature, cannot assist an agent without critical thinking skills, experience, and applicable knowledge.

We therefore request that these questions not be adopted, in any form, so long as they are used as prescribed within the docket, which is outside of the established inspection, investigation, and regulatory framework that already exists.

Best Regards

A handwritten signature in blue ink, appearing to read 'Brian Tyminski', with a stylized flourish extending from the end.

Brian Tyminski  
President  
Tym's LLC