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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 172, 173, and 180

[Docket No. PHMSA-2013-0225 (HM-218H)]

RIN 2137-AF27

Hazardous Materials: Miscellaneous Amendments; Response to Appeals;

Corrections

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Correcting amendments.

SUMMARY: PHMSA issues this rulemaking in response to appeals submitted to a previously-published final rule. On June 2, 2016, PHMSA published a final rule that made miscellaneous amendments to the Hazardous Materials Regulations. This final rule specifically responds to appeals to extend the effective date of certain nitric acid packaging and emergency response telephone number amendments as previously adopted. This final rule also clarifies amendments associated with the trigger date of the 10-year test period for certain MC 331 cargo tanks in dedicated propane service and corrects editorial errors.

DATES: Effective date: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Voluntary compliance date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Delayed compliance date: Unless otherwise specified, compliance with the amendments adopted in this final rule is required beginning [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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I. Background

A. Notice of Proposed Rulemaking

On January 23, 2015, PHMSA published a notice of proposed rulemaking (NPRM) under Docket No. PHMSA-2013-0225 [(HM-218H); 80 FR 3787] that proposed amendments to update and clarify existing requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). Both the NPRM and the subsequent final rule—see Section I, Subsection B (“Final Rule”) of this rulemaking—are part of DOT’s Retrospective Regulatory Review (RRR) process designed to identify possible improvements to the regulations through the extensive review of both the HMR and previously-issued letters of interpretation. In addition, the NPRM proposed regulatory requirements in response to seven (7) petitions for rulemaking and two (2) National Transportation Safety Board (NTSB) Safety Recommendations.

B. Final Rule

On June 2, 2016, PHMSA issued a final rule titled, “Hazardous Materials: Miscellaneous Amendments (RRR),” under Docket No. PHMSA-2013-0225 [(HM-218H); 81 FR 35483] that made miscellaneous amendments to the HMR to update and clarify certain regulatory requirements. Based on an assessment of the proposed changes and the comments received, the June 2, 2016 final rule covered various topics including the following topics addressed in this rule:

- Emergency response telephone numbers
- Packaging instructions for certain shipments of nitric acid
- Test period extension to 10 years for certain MC 331 cargo tanks in dedicated propane delivery service
- Hazardous Materials Table revisions
- Pressure relief device testing for cargo tank motor vehicles
- Organic peroxide materials

II. Appeals to the Final Rule

A. Appellants

In this final rule, PHMSA addresses appeals submitted by the following organizations in response to the June 2, 2016 final rule:

- Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)
- The Dangerous Goods Advisory Council (DGAC)
- National Association of Chemical Distributors (NACD)
- United Parcel Service (UPS)

B. Discussion of Appeals by Affected Section

The specific concerns raised by the appellants are outlined below by section of the HMR:

Section 172.604

Section 172.604 prescribes emergency response telephone number requirements. In response to a petition for rulemaking (P-1597) from DGAC, PHMSA removed the allowance to use an alphanumeric telephone number as the emergency response telephone number listed on a shipping paper. Removal of this authorization eliminated time delays, which result from converting letters to numbers in extremely time-sensitive situations and present an unnecessary delay in emergency response. Therefore, PHMSA amended § 172.604(a) to require the emergency response telephone number to be displayed numerically only.

Following the June 2, 2016 final rule, UPS submitted an appeal concerning the effective date for this amendment. Specifically, UPS indicated that the July 5, 2016, effective date did not provide sufficient time to update the electronic systems used for processing hazardous material shipments and implement the new requirement to use only numeric emergency response telephone numbers. Additionally, UPS stated in its appeal that shippers may be challenged by the short transition period. UPS suggested a one-year timeframe to overcome the challenges and implement the new requirements.

PHMSA understands the concerns raised by UPS and recognizes the need for additional time to comply with this regulatory amendment. PHMSA had accepted UPS's appeal to delay the compliance date. However, recent appellant feedback shows that the extended timeframe since the publication of the previous final rule on June 2, 2016, has allowed entities such as UPS sufficient time to update their electronic systems. PHMSA does not believe that it is necessary to extend the compliance date any further beyond the effective date and delayed compliance schedule of this final rule. See DATES. Note that

PHMSA will not be taking enforcement action for non-compliance with this requirement for the period from July 5, 2016, to the effective date of this rule.

Section 173.158

Section 173.158 prescribes the packaging requirements for nitric acid. In response to a petition for rulemaking (P-1601) from UPS, PHMSA amended the packaging provisions for certain shipments of nitric acid by requiring intermediate packaging for glass inner packagings. In its petition, UPS expressed concern regarding incidents of fire in transport from combination packagings of wooden or fiberboard outer packaging with the glass inners. The addition of intermediate packaging for these packagings would improve safety by preventing breakage, leakage, and resulting fires. Therefore, PHMSA amended § 173.158(e) to require that when nitric acid, in concentrations less than 90 percent, is packaged in glass inner packagings placed in wooden or fiberboard outer packaging, the glass inner packagings must be packed in tightly-closed, non-reactive intermediate packagings and cushioned with a non-reactive absorbent material. Previously, no intermediate packaging was required.

COSTHA, DGAC, and NACD submitted appeals expressing concern regarding the effective date for this amendment. They stated that the July 5, 2016, effective date did not provide sufficient time for shippers to sell current inventory or process inventory through the distribution system or the supply chain. Furthermore, they argued the original effective date did not allow sufficient time for testing and development of new packaging that would comply with the new requirement. They requested a transition

period of one year from the effective date of the rulemaking to allow for existing inventory to be processed and new packaging to be secured.

PHMSA understands the concerns of the regulated community regarding the time needed to move inventory and comply with the new packaging requirements. PHMSA had accepted the appeals from COSTHA, DGAC, and NACD to extend the compliance date for the modified nitric acid packaging requirement. Recent appellant feedback shows that most shippers are able to comply with the new requirements, while a few are still working to reduce their stock of completed packages and unused packagings predating the nitric acid packaging change in the June 2, 2016, final rule. Similar to our response to the § 172.604(a) changes and appeal, PHMSA will not be taking enforcement action for non-compliance with this requirement for the period from July 5, 2016, to the effective date of this rule. PHMSA is further extending the compliance date to 90 days after publication of this final rule in the *Federal Register*. See DATES.

Furthermore, PHMSA has received public requests for additional clarification of the requirement for the use of non-reactive absorbent material in § 173.158(e). As previously stated, when nitric acid, in concentrations less than 90 percent, is packaged in wooden or fiberboard outer packaging, in combination with glass inner packagings, the glass inner packagings must be packed in tightly-closed, non-reactive intermediate packagings and cushioned with a non-reactive absorbent material. In the June 2, 2016 final rule, PHMSA did not specify how much absorbent material is required for this packaging configuration. Persons have inquired on exactly how much absorbent material must be used. We clarify in this final rule that, consistent with other provisions for use of

absorbent material in the HMR, the absorbent material should be in sufficient quantity to absorb the entire contents of the inner packagings.

III. Corrections and Amendments

In this final rule, PHMSA also makes corrections to sections that were amended by the June 2, 2016 final rule and a March 30, 2017 final rule under Docket Number PHMSA–2015–0273 (HM–215N) [82 FR 15795]. Specifically, we make a conforming amendment to § 173.129 for organic peroxides and clarify applicable requirements for cargo tank motor vehicle (CTMV) periodic tests and inspection. A section-by-section summary of these corrections is as follows:

Part 172

Section 172.101

This section prescribes the purpose and instructions for use of the § 172.101 Hazardous Materials Table (HMT). We are making editorial corrections to two entries in the HMT. For the entry “UN0501, Propellant, solid” the Packing Group (PG) in Column (5) is removed as it was inadvertently re-added in the March 30, 2017 final rule (HM-215N). For the entry “UN0190, Samples, explosive, other than initiating explosives” the PG in Column (5) is removed for consistency with revisions to all other Class 1 explosive entries made in the June 2, 2016 final rule. Under that rule, all references to PG II in the HMT for explosives were removed as unnecessary because explosives are not assigned packing groups.

Part 173

Section 173.129

Section 173.129 prescribes the requirements for assigning a PG to organic peroxides. Specifically, this section assigns PG II to all organic peroxides. The June 2, 2016, final rule removed the PG designation for all organic peroxides in the § 172.101 Hazardous Materials Table (HMT) to harmonize with international standards. However, the text that assigns PG II to all organic peroxides was left in § 173.129 and may cause confusion for shippers of organic peroxides when reviewing the HMT because the PG designation is no longer shown. Therefore, for consistency and to further clarify that organic peroxides are no longer assigned a packing group, PHMSA is removing and reserving this section.

Part 180

Section 180.407

Paragraph (c) of § 180.407 provides a table of compliance dates for periodic tests and inspection of DOT specification CTMVs. The June 2, 2016, final rule added a provision to allow for a 10-year interval period for the pressure test and internal visual inspection of MC 331 CTMVs under certain conditions (e.g., the cargo tanks must be made of nonquenched and tempered (NQT) SA-612 steel). The provision included a Note 5 that extended the 10-year inspection period to cargo tanks made of NQT SA-202 or NQT SA-455 steel provided the materials have full-size equivalent (FSE) Charpy vee notch (CVN) energy test data that demonstrated 75% shear-area ductility at 32 °F with an average of 3 or more samples >15 ft-lb FSE with no sample <10 ft-lb FSE. However,

NQT SA-612 was inadvertently included in the Note. It was the agency's intent that Note 5 only refer to NQT SA-202 or NQT SA-455 steel because NQT SA-612 is already referenced within the table making its inclusion in Note 5 redundant and confusing. Therefore, in this final rule, PHMSA is correcting Note 5 to only refer to NQT SA-202 and NQT SA-455 steels.

Additionally, we are clarifying that as of the June 2, 2016 final rule's effective date, the 10-year inspection period for eligible CTMVs applies from the date the most recent pressure test and internal visual inspection were performed. Meaning eligible cargo tanks tested or inspected prior to the effective date do not have to complete the 5-yr cycle before being able to test or inspect on a 10-year cycle.

Finally, within the paragraph (c) table in the column for "Date by which first test must be completed (see Note 1)," we included trigger dates for applicability of the new 10-year requalification for MC 331 CTMVs made of these steels and made the dates consistent with the trigger dates for the other inspection and testing provisions within the table. This has caused unwarranted confusion for the regulated and enforcement communities with respect to compliance. First, the dates were intended to be the same however we introduced a September 1, 2016 date for the visual inspection and a September 1, 2017 date for the pressure test causing confusion on why they were different. Second, the trigger date(s) are different than the July 5, 2016 effective date of the rule causing further confusion on which applies. Therefore, in this rule, we are removing the trigger dates from the paragraph (c) table and clarifying that the effective date (July 5, 2016) of the June 2, 2016 final rule is the trigger date and reiterating that the 10-year interval applies.

Paragraph (g) of § 180.407 prescribes the pressure test requirements for all components of the cargo tank wall. Prior to the publication of the June 2, 2016 final rule, the bench testing requirements for pressure relief valves were contained within § 180.407(g)(1)(ii). In response to a petition (P-1609) from the Truck Trailer Manufacturers Association (TTMA), the June 2, 2016 final rule clarified the requirements for testing pressure relief valves and relocated the requirements of § 180.407(g)(1)(ii)(A), (B), and (C) to § 180.407(j) as (j)(1), (2), and (3), respectively. However, due to an incorrect *Federal Register* instruction, only the introductory text was revised. It was the agency's intent to revise the entire section to remove the paragraphs § 180.407(g)(1)(ii)(A), (B), and (C). To avoid further confusion by regulated entities, in this final rule, PHMSA is removing § 180.407(g)(1)(ii)(A), (B), and (C) as redundant because these same requirements currently reside in § 180.407(j).

PHMSA has received some inquiries regarding the new provisions of § 180.407(j) and how they relate to other sections pertaining to CTMVs. Therefore, PHMSA seeks to clarify that while § 180.407(j) permits DOT 400 series pressure relief devices to be installed on MC 300 series CTMVs, the pressure relief devices must still meet the venting capacity and set pressure requirements of the original specification, in accordance with §§ 173.33(d)(3) and 180.407(h)(2).

IV. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This final rule is published under authority of Federal hazardous materials transportation law (Federal hazmat law). See 49 U.S.C. 5101 et seq. Section 5103(b) of

Federal hazmat law authorizes the Secretary of Transportation (Secretary) to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. Further, section 5120(b) of Federal hazmat law authorizes the Secretary to ensure that, to the extent practicable, regulations governing the transportation of hazardous materials in commerce are consistent with standards adopted by international authorities. The Secretary has delegated the authority granted in the Federal hazmat law to the PHMSA Administrator. *See* 49 CFR 1.97.

B. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), Executive Order 13610 (Identifying and Reducing Regulatory Burdens), Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866, “Regulatory Planning and Review.” *See* 58 FR 51735 (Oct. 4, 1993). Accordingly, this final rule was not reviewed by the Office of Management and Budget (OMB) and is not considered a significant regulatory action under the DOT Regulatory Policies and Procedures of February 26, 1979. *See* 44 FR 11034.

Executive Order 13563, “Improving Regulation and Regulatory Review,” supplements and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866. *See* 76 FR 3821 (Jan. 21, 2011). Executive Order 13563 notes that our nation’s current regulatory system must protect not only public health, welfare, safety, and our environment, but also promote economic

growth, innovation, competitiveness, and job creation. In addition, Executive Order 13563 specifically requires Federal agencies to: (1) involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) “identify and consider regulatory approaches that reduce burdens and maintain flexibility”; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; and (5) consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

Executive Order 13610, “Identifying and Reducing Regulatory Burdens,” urges agencies to conduct retrospective analyses of existing rules to examine whether they remain justified and whether they should be modified or streamlined in light of changed circumstances, including the rise of new technologies. *See* 77 FR 28467 (May 14, 2012).

Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” states that, “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.” Guidance released publicly and dated February 2, 2017 clarified that two “deregulatory actions” would be needed to fully offset the costs of each new significant regulatory action that imposes costs.

As this final rule is not considered a significant action under 3(f) of Executive Order 12866, EO 13771 is not applicable to this action, and this action has not been analyzed in accordance with the principles and criteria of EO 13771.¹

¹ Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, “Reducing Regulation and Controlling Regulatory Costs, Docket ID: OMB-2017-0002, available at: <https://www.regulations.gov/document?D=OMB-2017-0002-0001>

Together, these executive orders require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.”

As discussed in this rulemaking, PHMSA is amending various provisions in the HMR for necessary clarification and relaxation of overly burdensome requirements. These appeals requested that PHMSA extend the compliance date of the nitric acid packaging requirements, as well as the compliance date of the requirement for offerors to provide emergency response telephone numbers in numeric form only.² Delaying these effective dates is a relaxation or reduction of the burden facing the regulated community. PHMSA anticipates the amendments contained in this rule will provide regulatory clarity and flexibility to the regulated community.

C. Executive Order 13132

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13132, “Federalism,” which requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” *See* 64 FR 43255 (Aug. 10, 1999).

² U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, “Hazardous Materials; Miscellaneous Amendments (RRR),” published June 2, 2016, 81 FR 35484, available at: <https://www.regulations.gov/document?D=PHMSA-2013-0225-0075>.

This final rule would preempt State, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

This final rule concerns the classification, packaging, marking, labeling, and handling of hazardous materials, among other covered subjects. As adopted, this rule preempts any State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are “substantively the same” as the Federal requirements.

See 49 CFR 107.202(d).

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that significantly or uniquely affect Indian communities by imposing “substantial direct compliance costs” or “substantial direct effects” on such communities or the relationship and distribution of power between the Federal Government and Indian tribes. *See 65 FR 67249 (Nov. 9, 2000).* Since this final rule does not have tribal implications and does not impose substantial direct compliance costs on Indian tribal governments, the funding and consultation requirements of Executive Order 13175 do not apply and a tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to consider whether a rulemaking would have a “significant economic impact on a substantial number of small entities.” In addition, the Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so while still meeting the objectives of applicable regulatory statutes. However, in the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

As this final rule would clarify provisions based on PHMSA’s initiatives and correspondence with the regulated community, the impact that it will have on small entities is not expected to be significant. The changes are generally intended to provide relief and, as a result, marginal positive benefits to shippers, carriers, and packaging manufacturers and testers, including small entities. These benefits are not at a level that can be considered economically significant. Consequently, this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), as well as DOT’s Procedures and Policies, to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

F. Paperwork Reduction Act

This final rule imposes no new information collection and recordkeeping requirements.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. Pub. L. 104-4. It does not result in costs of \$155 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, and it is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, requires Federal agencies to analyze proposed actions to determine whether they will have a significant impact on the human environment. In the June 2, 2016 final rule, PHMSA developed an assessment to determine the effects of these revisions on the environment and whether a more comprehensive environmental impact statement may be

required. Our findings conclude that there are no significant environmental impacts associated with this final rule. The amendments are intended to: update, clarify, or provide relief from certain existing regulatory requirements to promote safer transportation practices; eliminate unnecessary regulatory requirements; facilitate international commerce; and make these requirements easier to understand. For interested parties, the environmental assessment is included with the June 2, 2016, final rule available in the public docket.

J. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 [65 FR 19477] or you may visit <http://www.dot.gov/privacy>.

K. International Trade Analysis

The Trade Agreements Act of 1979, Pub. L. 96-39, as amended by the Uruguay Round Agreements Act, Pub. L. 103-465, prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the

United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. PHMSA notes the purpose of this rulemaking is to ensure the safety of the American public and has assessed the effects of this rule to ensure that it does not exclude imports that meet this objective. As a result, this final rule is not considered as creating an unnecessary obstacle to foreign commerce.

List of Subjects

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 180

Hazardous materials transportation, Incorporation by reference, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, PHMSA amends 49 CFR chapter I as follows:

**PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS,
HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE
INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS**

1. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

2. In § 172.101, the Hazardous Materials Table is amended by revising the following entries in the appropriate alphabetical sequence:

§ 172.101 Purpose and use of hazardous materials table.

* * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Sym-bols (1)	Hazardous materials descrip-tions and proper shipping names (2)	Hazard class or division (3)	Identifi-cation Numbers (4)	PG (5)	Label Codes (6)	Special Provisions (§ 172.102) (7)	(8)			(9)		(10)		
							Packaging (§ 173.***)			Quantity limitations (see §§ 173.27 and 175.75)			Vessel stowage	
							Excep-tions (8A) (8B)	Non-bulk	Bulk (8C)	Passenger aircraft/rail (9A)	Cargo air-craft only (9B)	Loca-tion (10A)	Other (10B)	
*	*	*	*	*	*	*	*	*	*	*	*	*	*	
	Propellant, solid	1.4C	UN0501		1.4C		None	62	None	Forbidden	75 kg	02	25	
*	*	*	*	*	*	*	*	*	*	*	*	*	*	
G	Samples, explosive, <i>other than initiating explosives</i>		UN0190			113	None	62	None	Forbidden	Forbidden	05	25	
*	*	*	*	*	*	*	*	*	*	*	*	*	*	

* * * *

**PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND
PACKAGINGS**

3. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

§ 173.129 [Removed and Reserved]

4. Remove and reserve § 173.129.
5. In § 173.158, revise paragraph (e) to read as follows:

§ 173.158 Nitric acid.

* * * *

(e) Nitric acid of less than 90 percent concentration, when offered for transportation or transported by rail, highway, or water may be packaged in 4A, 4B, or 4N metal boxes, 4G fiberboard boxes or 4C1, 4C2, 4D or 4F wooden boxes with inside glass packagings of not over 2.5 L (0.66 gallon) capacity each. Beginning [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], when placed in wooden or fiberboard outer packagings, glass inner packagings must be packed in tightly-closed, intermediate packagings and cushioned with absorbent material sufficient to absorb the entire contents of the package. The intermediate packaging and absorbent material must be compatible with the nitric acid. See § 173.24(e).

* * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

6. The authority citation for part 180 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

7. In § 180.407:

- a. Revise the table and notes in paragraph (c); and
- b. Revise paragraph (g)(1)(ii).

The revisions read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(c) * * *

COMPLIANCE DATES—INSPECTIONS AND TEST UNDER § 180.407(c)

Test or inspection (cargo tank specification, configuration, and service)	Date by which first test must be completed (see Note 1)	Interval period after first test
External Visual Inspection:		
All cargo tanks designed to be loaded by vacuum with full opening rear heads	September 1, 1991	6 months.
All other cargo tanks	September 1, 1991	1 year.
Internal Visual Inspection:		
All insulated cargo tanks, except MC 330, MC 331, MC 338 (see Note 4)	September 1, 1991	1 year.
All cargo tanks transporting lading corrosive to the tank	September 1, 1991	1 year.
MC 331 cargo tanks less than 3,500 gallons water capacity in dedicated propane service constructed of nonquenched and tempered NQT SA-612 steel (see Note 5)		10 years.
All other cargo tanks, except MC 338	September 1, 1995	5 years.
Lining Inspection:		
All lined cargo tanks transporting lading corrosive to the tank	September 1, 1991	1 year.
Leakage Test:		
MC 330 and MC 331 cargo tanks in chlorine service	September 1, 1991	2 years.
All other cargo tanks except MC 338	September 1, 1991	1 year.
Pressure Test:		
(Hydrostatic or pneumatic) (See Notes 2 and 3)		

All cargo tanks which are insulated with no manhole or insulated and lined, except MC 338	September 1, 1991	1 year.
All cargo tanks designed to be loaded by vacuum with full opening rear heads	September 1, 1992	2 years.
MC 330 and MC 331 cargo tanks in chlorine service	September 1, 1992	2 years.
MC 331 cargo tanks less than 3,500 gallons water capacity in dedicated propane service constructed of nonquenched and tempered NQT SA-612 steel (See Note 5)		10 years.
All other cargo tanks	September 1, 1995	5 years.
Thickness Test:		
All unlined cargo tanks transporting material corrosive to the tank, except MC 338	September 1, 1992	2 years.

NOTE 1: If a cargo tank is subject to an applicable inspection or test requirement under the regulations in effect on December 30, 1990, and the due date (as specified by a requirement in effect on December 30, 1990) for completing the required inspection or test occurs before the compliance date listed in table I, the earlier date applies.

NOTE 2: Pressure testing is not required for MC 330 or MC 331 cargo tanks in dedicated sodium metal service.

NOTE 3: Pressure testing is not required for uninsulated lined cargo tanks, with a design pressure MAWP 15 psig or less, which receive an external visual inspection and lining inspection at least once each year.

NOTE 4: Insulated cargo tanks equipped with manholes or inspection openings may perform either an internal visual inspection in conjunction with the external visual inspection or a hydrostatic or pneumatic pressure-test of the cargo tank.

NOTE 5: A 10-year inspection interval period also applies to cargo tanks constructed of NQT SA-202 or NQT SA-455 steel provided the materials have full-size equivalent (FSE) Charpy vee notch (CVN) energy test data that demonstrated 75% shear-area ductility at 32 °F with an average of 3 or more samples > 15 ft-lb FSE with no sample < 10 ft-lb FSE.

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(g) * * *

(1) * * *

(ii) All self-closing pressure relief valves, including emergency relief vents and normal vents, must be removed from the cargo tank for inspection and testing according to the requirements in paragraph (j) of this section.

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