



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 25, 2022

Robert Ten Eyck
TEN-E Packaging Services, Inc.
1666 County Road 74
Newport, MN 55055

Reference No. 21-0113

Dear Mr. Eyck:

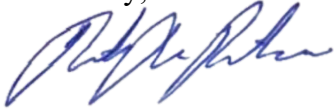
This letter is in response to your December 21, 2021, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the packaging requirements for certain nitric acid solutions (69.5% nitric acid). Specifically, you seek clarification on the implementation of special provision IP15—which is listed in Column 7 of the § 172.101 Hazardous Materials Table (HMT)—as it applies when this material is packaged in a composite intermediate bulk container (IBC) with a rigid inner receptacle. In your letter, you describe a scenario involving unused composite IBCs that were manufactured in 2018. You ask: (1) whether these composite IBCs are restricted from use when transporting “UN2031, Nitric acid *other than red fuming, with at least 65 percent, but not more than 70 percent nitric acid*, 8, (5.1), PG II”; and (2) whether the two-year limit on using the composite IBCs is triggered by the IBC manufacture date.

The answer to both questions is yes. Nitric acid solutions assigned special provision IP15 in Column 7 of the HMT may not be transported in a composite IBC with a rigid inner receptacle that is more than two years out from its date of manufacture. Further, the two-year limit is based on the date of manufacture, regardless of when the packaging is filled. As stated in special provision IP15, “for UN2031 with more than 55% nitric acid, rigid plastic IBCs and composite IBCs with a rigid inner receptacle are authorized for two years from the date of IBC manufacture.”

Please note that this restriction does not preclude the use of the IBCs for other hazardous materials as authorized.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a prominent initial "D".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division



TEN-E Packaging Services, Inc.

December 21, 2021

Shane Kelley
US DEPARTMENT OF TRANSPORTATION
Pipeline and Hazardous Materials Safety Administration
Standards and Rulemaking PHH-10
1200 New Jersey Avenue
SE Building, 2nd Floor
Washington, DC 20590

Re.: Use of Special Provision IP15

Dear Shane:

A client of ours contacted us concerning Title 49 CFR Special Provision IP15 and their use of composite IBCs for packaging 69.5% nitric acid. The company has an inventory of new IBCs that were manufactured in 2018 and because of the language in IP15 that states “composite IBCs with a rigid inner receptacle are authorized for two years from the date of IBC manufacture” they question if these new IBCs are restricted from use. It would make sense to start the packaging shelf life at the time the package is first filled with the nitric acid as opposed to the actual container manufacture date that appears as part of the UN package specification marking.

This special provision was placed in the Title 49 CFR regulations under Docket HM-215J and is taken from the language that appears in the UN Recommendations on the Transport of Dangerous Goods (re. Packing Instruction IBC02, Special Packing Provision B15). We could not find anything in the preamble to the Title 49 CFR regulation or past UN papers that explain the intent of this special provision and so we are writing to ask for a formal interpretation as to whether the two-year limit applies to the actual container manufacture date or when the package is first filled with the nitric acid.

Thank you for your input on this regulatory matter.

Sincerely,



Robert J. Ten Eyck
Director, Technical Services
TEN-E Packaging Services, Inc.

TEN-E Packaging Services, Inc.

1666 County Road 74
Newport, MN 55055
Phone: 651-459-0671
Fax: 651-459-1430
Email: info@ten-e.com
Web: www.ten-e.com
United States – Minnesota

326 North Corona Avenue
Ontario, CA 91764
Phone: 909-937-1260
Fax: 909-937-1262
Email: info@ten-e.com
Web: www.ten-e.com
United States – California

2101 North Shore Street
High Point, NC 27263
Phone: 336-803-1331
Fax: 336-804-5074
Email: info@ten-e.com
Web: www.ten-e.com
United States – North Carolina

From: [Kelley, Shane \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Cc: [INFOCNTR \(PHMSA\)](#)
Subject: Fwd: Special Provision IP15
Date: Tuesday, December 21, 2021 12:41:22 PM
Attachments: [image001.png](#)
[21-MN50039 Use of Special Provision IP15 - DOT Interpretation.docx](#)

Good afternoon team. Please see the attached for processing as a request for interpretation. Thank you

From: Robert Teneyck <Robert.Teneyck@ten-e.com>
Sent: Tuesday, December 21, 2021 12:23:50 PM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Subject: Special Provision IP15

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi Shane,
Attached is a formal request for an interpretation on the use of Special Provision IP15 when packaging nitric acid in composite IBCs. Please let me know if you need anything further to respond to this inquiry.
Thanks much.
Bob T.



Robert Ten Eyck
robert.teneyck@ten-e.com
Office: 651-459-0671
Fax: 651-459-1430

TEN-E Packaging Services, Inc.
1666 County Road 74
Newport, MN 55055
www.ten-e.com



TEN-E Packaging Services, Inc.

December 21, 2021

Shane Kelley
US DEPARTMENT OF TRANSPORTATION
Pipeline and Hazardous Materials Safety Administration
Standards and Rulemaking PHH-10
1200 New Jersey Avenue
SE Building, 2nd Floor
Washington, DC 20590

Re.: Use of Special Provision IP15

Dear Shane:

A client of ours contacted us concerning Title 49 CFR Special Provision IP15 and their use of composite IBCs for packaging 69.5% nitric acid. The company has an inventory of new IBCs that were manufactured in 2018 and because of the language in IP15 that states “composite IBCs with a rigid inner receptacle are authorized for two years from the date of IBC manufacture” they question if these new IBCs are restricted from use. It would make sense to start the packaging shelf life at the time the package is first filled with the nitric acid as opposed to the actual container manufacture date that appears as part of the UN package specification marking.

This special provision was placed in the Title 49 CFR regulations under Docket HM-215J and is taken from the language that appears in the UN Recommendations on the Transport of Dangerous Goods (re. Packing Instruction IBC02, Special Packing Provision B15). We could not find anything in the preamble to the Title 49 CFR regulation or past UN papers that explain the intent of this special provision and so we are writing to ask for a formal interpretation as to whether the two-year limit applies to the actual container manufacture date or when the package is first filled with the nitric acid.

Thank you for your input on this regulatory matter.

Sincerely,



Robert J. Ten Eyck
Director, Technical Services
TEN-E Packaging Services, Inc.

TEN-E Packaging Services, Inc.

1666 County Road 74
Newport, MN 55055
Phone: 651-459-0671
Fax: 651-459-1430
Email: info@ten-e.com
Web: www.ten-e.com
United States – Minnesota

326 North Corona Avenue
Ontario, CA 91764
Phone: 909-937-1260
Fax: 909-937-1262
Email: info@ten-e.com
Web: www.ten-e.com
United States – California

2101 North Shore Street
High Point, NC 27263
Phone: 336-803-1331
Fax: 336-804-5074
Email: info@ten-e.com
Web: www.ten-e.com
United States – North Carolina