



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

OCT 17 2014

Robyn Kinsley  
Director, Transportation  
The Chlorine Institute  
1300 Wilson Blvd, Suite 525  
Arlington, VA 22209

Ref. No.: 14-0015R

Dear Ms. Kinsley:

This is a revised response to your January 21, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to tank cars used for materials poisonous by inhalation (PIH materials). Your questions are paraphrased and answered below.

Q1. You ask if the 20-year service life established in 49 CFR § 173.31(e)(2)(iii) is meant to be an authorized “minimum” service life or a “maximum” service life after time of construction?

A1. In accordance with § 173.31(e)(2)(iii), a tank car meeting the applicable authorized tank car specifications listed in § 173.244(a)(2) or (3), or § 173.314(c) or (d) is authorized for the transportation of a PIH material for a period of 20 years after the date of original construction. As written, the 20-year service life is authorized as a maximum service life.

Q2. You ask if this is indeed a “minimum” service life, are you correct to assume that these cars have a regulated life of 50 years per 49 CFR § 215.203?

A2: Please see A1.

Although the plain language of § 173.31(e)(2)(iii) limits the authorized service life of tank cars meeting the relevant specifications to 20 years from the date of the cars’ construction, the final rule in which PHMSA adopted this 20-year service life made clear that tank cars built to these specifications were intended as an interim solution to then-existing market conditions. See 74 Fed. Reg. 1770 (Jan. 13, 2009). These “interim” tank car specifications

were intended to make immediate safety improvements in tank car construction and to ensure the ongoing availability of tank cars for the transportation of PIH materials, while the Department moved forward with the development and validation of an enhanced performance standard for PIH tank cars and the incorporation of such an enhanced standard into the HMR. With the understanding of the "interim" nature of these cars, PHMSA intended the 20-year authorized service life to guarantee tank car owners a reasonable service life for the cars, even if the Department was to issue a new tank car standard in the years immediately following the 2009 final rule. Currently, the Department is continuing its work towards developing and implementing an enhanced performance standard for PIH materials tank cars.

If you believe that given current circumstances, tank cars built to specifications listed in § 173.244(a)(2) or (3), or § 173.314(c) or (d), should be authorized for PIH materials service in excess of 20 years (or that any other change to the regulatory requirements is warranted), we invite you to file a petition for rulemaking in accordance with §§ 106.95, 106.100 and 106.105 of the HMR, including all information needed to support your petition (e.g., an analysis of the service history of tank cars built to these "interim" standards and any other relevant safety-related information). Your request will be further evaluated for merit to address in an upcoming rulemaking. For regulations in 49 CFR Parts 171 through 180, please submit the petition to: Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, PHH-10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. Please contact Mr. Steven Andrews in the Regulatory Review and Reinvention Branch of the Standards and Rulemaking Division at 202-366-8553 for more information.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke at the end.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

**From:** [Henriksen, Lucinda \(FRA\)](#)  
**To:** [Nickels, Matthew \(PHMSA\)](#); [Alexy, Karl \(FRA\)](#)  
**Cc:** [Foster, Glenn \(PHMSA\)](#)  
**Subject:** RE: 14-0015: PIH  
**Date:** Thursday, May 22, 2014 1:38:06 PM

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Matt – Thanks for catching my typo in our revisions. Karl and I are good with the revised version you provided below, so it's good to go from our side. Thanks.

-Lucinda

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**From:** Nickels, Matthew (PHMSA)  
**Sent:** Thursday, May 22, 2014 1:15 PM  
**To:** Alexy, Karl (FRA); Henriksen, Lucinda (FRA)  
**Cc:** Foster, Glenn (PHMSA)  
**Subject:** RE: 14-0015: PIH

Hey guys, attached is a final tracked changes letter. If you guys are ok with it, we'll go ahead and move this out.

Thanks, Matt

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**From:** Alexy, Karl (FRA)  
**Sent:** Monday, May 12, 2014 7:09 AM  
**To:** Foster, Glenn (PHMSA)  
**Subject:** 14-0015: PIH

Glenn – FRA's suggested edits to the letter regarding the service life of the PIH car. Thanks for the opportunity to comment.

Karl



THE CHLORINE INSTITUTE  
1300 Wilson Blvd., Suite 525, Arlington, VA 22209  
Tel 703-894-4140 Fax 703-894-4130  
www.chlorineinstitute.org

January 21, 2014

Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
ATTN: PHH-10  
US Department of Transportation  
East Building  
1200 New Jersey Ave., SE  
Washington, DC 20590

**RE: Request for Interpretation – Authorized Service Life of TIH Interim Tank Cars**

The Chlorine Institute (“CI” or the “Institute”) is a 195 member, not-for-profit trade association of chlorine producers worldwide, as well as chlorine packagers, distributors, users, and suppliers. The Institute’s North American Producer members account for more than 93 percent of the total chlorine production capacity of the U.S., Canada, and Mexico. Chlorine, a Division 2.3 toxic-by-inhalation hazardous (TIH) material, is used throughout the U.S. economy and is key to the protection of public health.

Tank cars built after March 16, 2009 and intended for TIH service are required to meet the HM-246 TIH tank car requirements, also known as the “interim” tank car or the “I” car requirements. As part of that rulemaking, PHMSA established a service life of 20 years for the “I” cars under 49 CFR §173.31(e)(2)(iii).

***Question: Is the 20 year service life established in 49 CFR §173.31(e)(2)(iii) meant to be an authorized “minimum” service life or a “maximum” service life after time of construction? If this is indeed a minimum service life, are we correct to assume that these cars have a regulated life of 50 years per 40 CFR §215.203?***

Much of industry has understood this requirement to be a maximum service life of 20 years. However, based on discussions with various DOT personnel, we have been told that this requirement was intended to be an authorized minimum life of 20 years. It is crucial for the chlorine industry to receive a clear and official interpretation of this requirement, because the authorized service life of tank cars greatly impacts decisions made with regard to tank car fleet management.

If our revised interpretation of this requirement is correct, in that TIH interim tank cars have a regulated life of 50 years, then PHMSA needs to issue an interpretation to clarify the requirement for all stakeholders. If our revised interpretation is incorrect and the authorized service life of TIH interim tank cars is, in fact, a maximum of 20 years, then The Institute, along with other association parties, will follow-up with a petition for rulemaking requesting PHMSA

to amend the service life requirements for TIH interim tank cars by authorizing a regulated life of 50 years.

We request an expedient response to this question, because the answer we receive may impact the comments (due February 11) CI intends to make in response to Transport Canada's proposed tank car standard (TP14877), since Transport Canada has used the same language as US DOT with regard to the TIH "I" car service life requirement.

Thank you for your time on this matter.

Sincerely,

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

Robyn Kinsley  
Director, Transportation