



U.S. Department
of Transportation

MAY 25 2017

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**Pipeline and Hazardous
Materials Safety
Administration**

Mr. Gregory Phillips
Regulatory Affairs Manager
ICL Americas
622 Emerson Road, Suite 500
St. Louis, MO 63141

Reference No. 16-0178

Dear Mr. Phillips:

This letter is in response to your October 18, 2016, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to special provision 132 as it applies to vessel transportation of "UN 2071, Ammonium nitrate-based fertilizers." Specifically, you seek confirmation of your understanding that text was inadvertently omitted from special provision 132 as a result of numerous rulemaking changes, and you ask the status of special provision 132 as it applies to vessel transport of UN 2071 material.

As of October 1, 2002, special provision 132 stated:

"Ammonium nitrate fertilizers of this composition are not subject to the requirements of this subchapter if shown by a trough test (see United Nations Recommendations on the Transport of Dangerous Goods, Manual Tests and Criteria, Part III, sub-section 38.2) (see § 171.7 of this subchapter) not to be liable to self-sustaining decomposition and provided that they do not contain an excess of nitrate greater than 10% by mass (calculated as potassium nitrate)."

See the following chronology of changes made to special provision 132:

- On July 31, 2003, the HM-215E final rule (68 FR 44991) revised special provision 132 to add the criteria for use of this special provision, stating:

"This entry may only be used for uniform, ammonium nitrate-based fertilizer mixtures, containing nitrogen, phosphate or potash, meeting the following criteria: (1) Contains not more than 70% ammonium nitrate; and (2) Contains not more than 0.4% total combustible, organic material calculated as carbon or with not more than 45% ammonium nitrate and unrestricted combustible material. Fertilizers within these composition limits are only subject to the requirements of this subchapter when transported by aircraft or vessel, and are not subject to the requirements of this subchapter if shown by a trough test, as specified in the UN Manual of Tests and Criteria, Part III, sub-section 38.2 (incorporated by reference; see § 171.7 of this subchapter), not to be liable to self-sustaining decomposition."
- On December 31, 2003, the HM-189U final rule (68 FR 75733) standardized the format used to cross-reference consensus standards published by nationally and internationally

recognized standard setting organizations that are incorporated by reference into the HMR, including in special provision 132. The revised entry for special provision 132 stated:

“Ammonium nitrate fertilizers of this composition are not subject to the requirements of this subchapter if shown by a trough test (see UN Manual of Tests and Criteria, Part III, subsection 38.2) (IBR, see § 171.7 of this subchapter) not to be liable to self-sustaining decomposition and provided that they do not contain an excess of nitrate greater than 10% by mass (calculated as potassium nitrate).”

- On September 23, 2005, the HM-189Y final rule (70 FR 56083) revised special provision 132 for editorial clarity, stating:

“This entry may only be used for uniform, ammonium nitrate based fertilizer mixtures, containing nitrogen, phosphate or potash, meeting the following criteria: (1) Contains not more than 70% ammonium nitrate and not more than 0.4% total combustible, organic material calculated as carbon or (2) Contains not more than 45% ammonium nitrate and unrestricted combustible material.”

The editorial changes made in HM-189Y represent the current language displayed in the HMR. Through the iteration of changes to special provision 132 and without specific preamble explanations, the regulatory language introduced by HM-215E and refined in HM-189U stating, “. . .when transported by aircraft or vessel, and are not subject to the requirements of this subchapter if shown by a trough test, as specified in the UN Manual of Tests and Criteria, Part III, sub-section 38.2 (incorporated by reference; see § 171.7 of this subchapter), not to be liable to self-sustaining decomposition,” is missing.

Based on the chronology of rulemaking changes and because rulemakings HM-189U and HM-189Y made non-substantive formatting and editorial changes only, special provision 132 should read as published under rulemaking HM-215E. The conditions for applicability and exceptions are supported by the assignment of symbols “A”, which denotes a material transported by aircraft and “W”, which denotes a material transported by vessel in Column (1) of the Hazardous Materials Table’s entry for “UN 2071, Ammonium nitrate-based fertilizers.” We plan to correct this inadvertent omission in a future rulemaking.

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

Sincerely,



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Baker
§ 172.102
Special Provision
16-0178

October 18, 2016

Dear Sirs:

This letter is to request guidance and interpretation regarding previously published text that has been omitted from special provision 132 in the current PHMSA oCFR version of 49 CFR 172.102.

For vessel shipments of qualified ammonium nitrate based fertilizer the hazardous materials table prescribes UN2071 which references special provision 132. This special provision was modified with the editorial corrections in HM-189Y which omitted the trailing text "... and are not subject to the requirements of this subchapter if shown by a trough test, as specified in the UN Manual of Tests and Criteria, Part III, Sub-section 38.2 (IBR, see § 171.7 of this subchapter), not to be liable to self-sustaining decomposition." This text had previously been restored to special provision 132 via HM-215E when it was inadvertently omitted through changes in HM-189U.

Ammonium nitrate based fertilizers that have been tested and determined not to exhibit self-sustaining decomposition would not be subject to classification under UN2071 according to the UN Manual of Tests and Criteria, Part III, Sub-section 38.2. Likewise under the HM-215E corrections, qualified fertilizers are not subject to the requirements of the subchapter. However, as currently published with the text omitted by HM-189Y these materials are fully regulated and must be classified under UN2071 even in the absence of the hazard characteristic. Due to the prior inadvertent omission of the text and its subsequent restoration we seek clarification regarding the status of the currently omitted portion of the special provision 132 text.

I hope this sufficiently summarizes the inquiry. Please contact me if you require clarification. Thank you in advance and I look forward to your response.

Sincerely,

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