

June 24, 2016

Magdy El-Sibaie, Ph.D.
Associate Administrator
Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Via E-Mail: magdy.el-sibaie@dot.gov

Dear Dr. El-Sibaie,

On behalf of the National Association of Chemical Distributors (NACD)¹, I am writing regarding the Final Rule filed in Docket No. PHMSA-2013-0225 (HM-218H) Hazardous Materials: Miscellaneous Amendments (RRR) and published on June 2, 2016. Specifically, NACD requests a one-year transition period for compliance with the modification to the packaging requirements for nitric acid in Section 173.158(e).

While NACD supports the safety objective of this change to the nitric acid packaging requirements, the compliance deadline of July 5, 2016 is impossible to meet. Industry needs additional time to process current inventory through the supply chain. More time is also needed to develop, test, and supply packaging that meets the new requirements. For these reasons, NACD respectfully requests PHMSA to provide a transition period of one year from the effective date of the final rule to July 5, 2017 for compliance with the new requirements.

In order to comply, shippers will need to find packaging that meets the new requirements. Some NACD members have expressed concern that the required packaging does not yet exist and will need to be developed, tested and supplied. Even if compliant packaging was already widely available, if the new requirements were to take effect on July 5, 2016, companies would need to open and repackage the products in their current inventories before shipping, which would present a safety risk to the workers involved in these activities as well as significant expense. Industry needs additional time to comply in order to obtain suitable

¹ NACD is an international association of nearly 440 chemical distributors and their supply-chain partners. NACD members represent more than 85% of the chemical distribution capacity in the nation and generate 93% of the industry's gross revenue. Members of NACD operate in every region of the country through approximately 1,500 facilities. The membership includes small businesses as well as many regional and national companies.

NACD members meet the highest standards in safety and performance through mandatory participation in NACD Responsible Distribution®, the association's third-party-verification environmental, health, safety, and security quality management system. Through Responsible Distribution®, NACD members demonstrate their commitment to continuous performance improvement in every phase of chemical storage, handling, transportation, and disposal operations.

Hazardous materials transportation is an integral part of the chemical distribution business. In 2014, NACD members made over 4 million shipments, were responsible for 26.3 million tons of product, and drove more than 140 million miles while making deliveries to customers every 7.3 seconds. In 2014, NACD members achieved a handling/storage safety record of 99.988% and averaged just one traffic incident for every 1.53 million miles driven.

supplies in needed quantities, revise standard operating procedures to ensure that packaging can continue to be performed safely, respond to customer questions and concerns, make necessary pricing changes, and adjust/replace machinery.

Thank you for your consideration of NACD's requests for a one-year transition period for the modified nitric acid packaging requirements. If you have questions or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer C. Gibson".

Jennifer C. Gibson
Vice President, Regulatory Affairs

cc: William Schoonover, Deputy Associate Administrator, Field Operations
Rachel Meidl, Deputy Associate Administrator, Policy and Programs
Charles Betts, Director, Standards and Rulemaking