



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

NOV 13 1998

400 Seventh Street, S.W.  
Washington, D.C. 20590

Mr. William O. Gramer  
3M Package Engineering  
P.O. Box 33327  
St. Paul, MN 55133-3327

Dear Mr. Gramer:

This is in response to your letter dated October 16, 1998, regarding prohibited labeling under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you state that the European Agreement on the International Transport of Dangerous Goods by Road (ADR) will require the use of a label that has the same shape, dimensions and colors as the hazard warning labels prescribed in the HMR for identifying limited quantities of hazardous materials. You ask if packages of hazardous materials labeled in conformance with the ADR regulations would be acceptable for export from, or import to, the United States.

Section 172.401(c) permits labeling in accordance with the International Civil Aviation Organization Technical Instructions, International Maritime Dangerous Goods Code, or Canadian Transport Dangerous Goods Regulations if a material is a hazardous material or dangerous good under any of these regulations. Except as provided for these regulations, the HMR do not permit the transportation of a package bearing any marking or label which by its color, design, or shape could be confused with a hazard warning label prescribed in the HMR. Therefore, a label that could be confused with or conflict with a hazard warning label may not be displayed on a package for transportation in the United States, to include the ADR labels described in your letter.

I hope this answers your inquiry. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

  
Edward Mazzullo, Director  
Office of Hazardous Materials Standards

Beatts  
§ 172.401  
98-0322



October 16, 1998

Edward Mazzulo, Director  
Office of Hazardous Materials Standards  
Research and Special Programs Administration, U.S. DOT  
400 7th St. SW; DMH-10  
Washington, DC 20590-0001

Request for Interpretation: 49 CFR 172.401 - Prohibited Labeling  
Subject: ADR Limited Quantity Hazard Diamond

Dear Mr. Mazzulo,

We are concerned that a recent regulatory change in Europe may conflict with a US DOT prohibition to apply marks or labels on dangerous goods packages which "...could be confused with or conflict with ..." [49CFR172.401] legitimate hazard marks and labels. We request clarification that our understanding is correct. Further, this European-Specific regulatory peculiarity clearly disrupts Global Harmonization of dangerous goods transportation, and as such, may be a matter to be addressed or interpreted by your International Standards Office. If so, kindly forward this request to the appropriate persons.

Beginning January 1, 1999, the European Agreement on the International Transport of Dangerous Goods by Road (ADR) will require a diamond marking to identify 'limited quantities' of dangerous goods shipped under European jurisdiction. (You may refer to the attachments, submitted by our European counterparts, for illustrations of marks and labels which may be used in Europe). The ADR limited quantity diamond 'label' or 'mark' is of precisely the same shape, dimensions, and will utilize the same color(s) as the hazard labels and markings described in the HMR. Text within the diamond shaped label may be in a variety of languages and sizes.

Our concern is that dangerous goods packages bearing this mark or label may be in violation of 49CFR 172.401(b) which states that, "No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its *color, design or shape* could be confused with or conflict with a label prescribed by this part". The most likely '*color*' for this ADR label may be black and white, which mimics colors used for division 6.1, 6.2, class 8, and 9 labels, but any of the hazard class colors may be used under the ADR (color is the option of the user), therefore, similarities to other hazard class labels may also occur. Finally, the '*design or shape*' of the ADR mark or label is identical to those dimensions of a US DOT specified Hazard label. A package handler, an emergency responder, or others in the transportation chain may confuse such an ADR mark with a hazard class label of similar '*...color, design or shape...*'.

It is our prediction that as manufacturers outside the USA implement the new ADR marking and labeling requirement, the USA will begin to see limited quantity packages imported from Europe and elsewhere with this mark displayed. Therefore, question 1: Will RSPA allow this? Further, we have received a request from our European businesses to place this mark on 3M product that is manufactured in the U.S. and destined for export to Europe. Therefore, question 2: Does RSPA support this practice, or is it in violation of 172.401(b)?

Edward Mazzulo, Director  
October 16, 1998  
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As this is an issue that will affect all global shippers of dangerous goods, would you be so kind as to please clarify the questions above, and if either scenario would be in violation of 49CFR 172.401(b) or any other part of the HMR. Please direct any questions about this issue to the engineer who brought this to our attention, Mr. Thomas A. Higbee, at (512)594-3192.

Sincerely,

*William O. Gramer*

William O. Gramer  
3M Package Engineering Regulatory Center of Excellence  
3M Center, 224-1E-09  
St. Paul, MN 55144-1000  
wgramer@mmm.com

WOG/mm

Attachments:

*612-  
-733-1110*

~~*612-984-2192*~~  
*612-984-3192*

*733-1407*

*Bill Gramer*



As specified for  
ADR 1999 Limited  
quantities.

Side length =  
100 mm.

UN 1133

Background  
colour not  
specified

Line  
colour not  
specified

3M European Reg. Centre of Excellence



ADR rule for  
multiple dangerous  
substances -

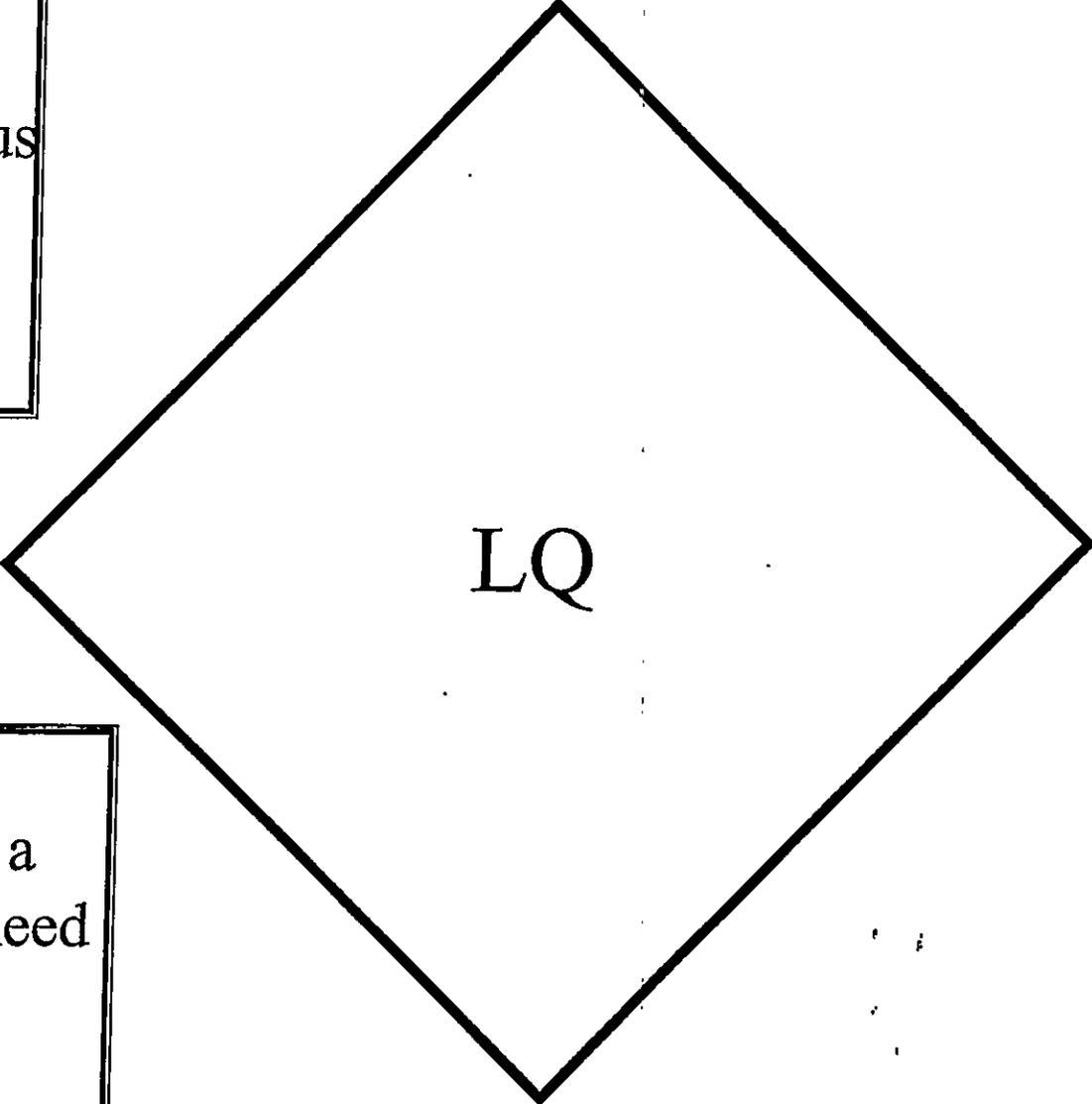
**option 1**

UN 1133

UN1263

UN1866

ADR rule for  
multiple dangerous  
substances -  
**option 2**



LQ

Note: letters LQ are a  
mark that does not need  
translation in ADR  
languages

As 3M and other companies are likely to show, due to IMDG requirements.

UN 1133  
Adhesives

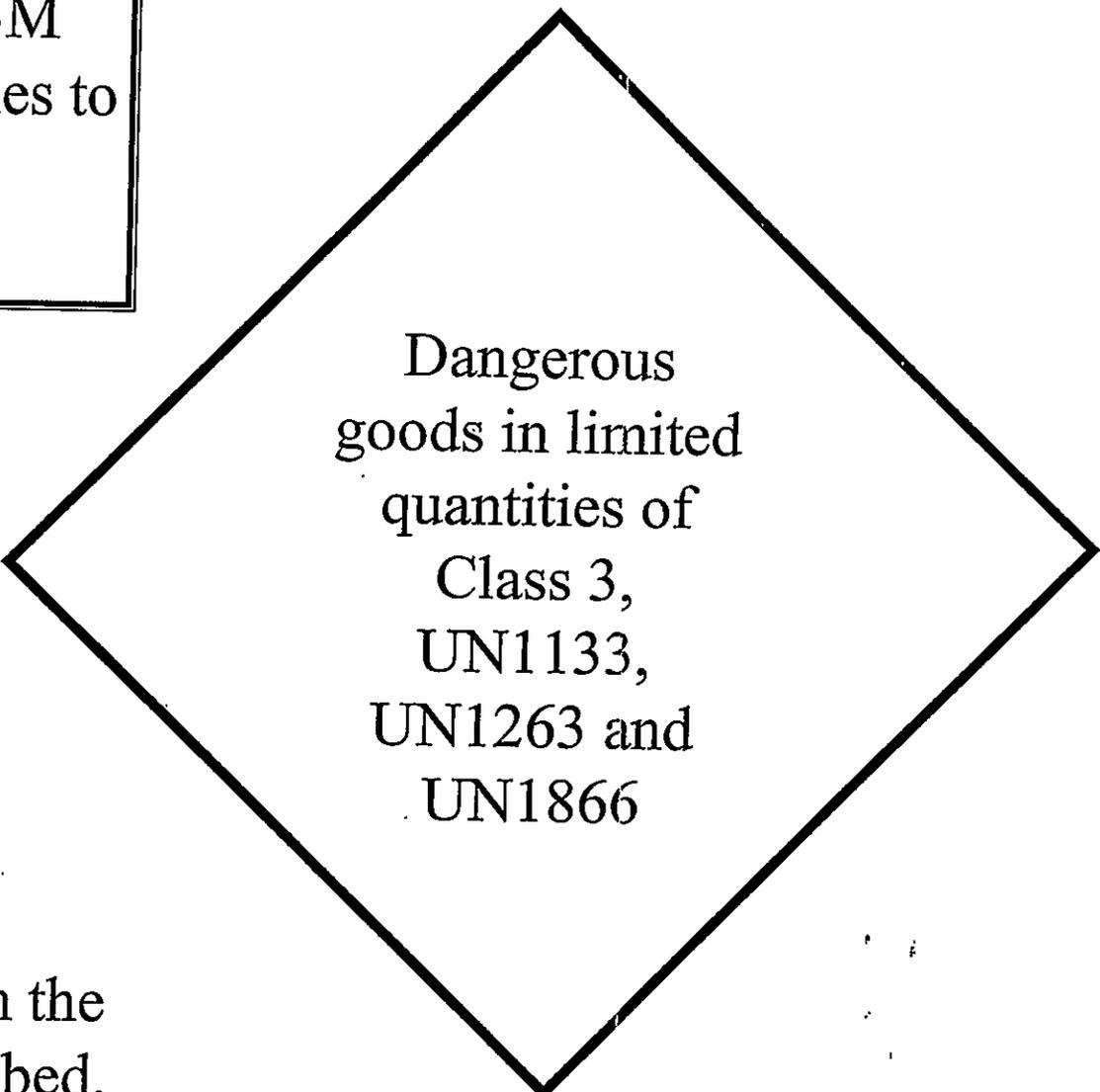
Note: English language is acceptable for PSN in all countries of ADR, as ADR does not require, and IMDG does not specify.

Probable way of 3M  
and other companies to  
show mutiple  
dangerous goods

UN1133  
Adhesives  
UN 1263  
Paints  
UN 1866  
Resin  
Solution

NB: the layout within the  
frame is NOT prescribed.

Alternate way of 3M  
and other companies to  
show mutiple  
dangerous goods



Dangerous  
goods in limited  
quantities of  
Class 3,  
UN1133,  
UN1263 and  
UN1866

NB: the layout within the  
frame is NOT prescribed.