



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JAN 19 1999

Mr. Norman J. Philion
Thompson, Hine & Flory, LLP
1920 N Street, N.W.
Washington, D.C. 20036

Ref. No. 98-0346

Dear Mr. Philion:

This responds to your letter of November 16, 1998, and subsequent telephone conversations with Ms. Diane LaValle of my staff concerning labels used on shipments by Toyota Motor Sales, U.S.A., Inc., from Japan to the United States. You ask whether an olive-green Class 2 label conforms to the International Maritime Dangerous Goods (IMDG) Code and is therefore acceptable for use in the United States under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

You are correct that § 171.12(b) of the HMR permits transportation in the United States of a material that is packaged, marked, classed, labeled, placarded, described, stowed and segregated, and certified in accordance with the IMDG Code, provided that all or part of the transportation is by vessel. Colors authorized by the IMDG Code for labels, marks, and signs are in section 8 of the General Introduction. Unlike the HMR, the IMDG Code does not provide specific color tolerances for labels. Instead, as your letter notes, the IMDG Code includes color pictures for each label authorized for international transportation by vessel. The colors are intended to be consistent with those specified in the UN Recommendations on the Transport of Dangerous Goods (UN Recommendations).

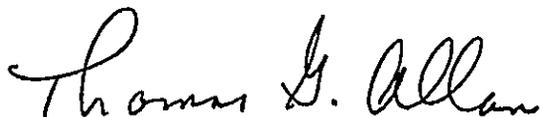
It is the opinion of this office that the olive-green label is not consistent with the color specification for a Class 2 label in the IMDG Code. In the IMDG Code, the color shown for a Class 2 label is dark green with no olive or yellow tones.

172.407

Because of the olive-green label's obvious inconsistency with both the IMDG Code and the UN Recommendations, it is not suitable for shipments into the United States.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Allan". The signature is written in dark ink and is positioned above the typed name.

Thomas G. Allan
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards

**THOMPSON
HINE & FLORY LLP**

Attorneys at Law

98-0346
Gorsky
§ 172.407

Facsimile:
202/331-8330

November 16, 1998

Direct Dial:
202/973-2705

VIA FACSIMILE

Mr. Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590

Re: Your Ref. No. 98-0235

Dear Mr. Billings:

This firm represents Toyota Motor Sales, U.S.A., Inc. By letter dated September 1, 1998, you informed Mr. Anthony P. Wilson of Toyota that with regard to the Class 2 labels he sent for review it was your Office's opinion "that the olive-green label is not consistent with the color specification in the UN Recommendations. . . ." A copy of your letter is attached for convenient reference.

The shipments that utilize the olive-green label arrive from Japan by ocean vessel. In accordance with the terms of 49 C.F.R. § 171.12(b) such shipments may be "offered and accepted for transportation and transported within the United States" if "packaged, marked, classed, labeled, placarded, described, stowed, and segregated. . . in accordance with the IMDG Code. . . ." The label chart included in the IMDG Code shows what appears to be an olive-green Class 2 label. Although it is not a color reproduction, I am transmitting to you a photocopy of that chart for reference purposes. I have learned from my client that Toyota Motor Corporation in Japan is utilizing the olive-green Class 2 label in order to conform to the IMDG color standards. The Japanese Ministry of Transport has confirmed the acceptability of this color, apparently based upon the requirements of the IMDG Code.

For the foregoing reasons, I am requesting confirmation from your Office that the olive-green Class 2 label conforms to the IMDG Code and is therefore acceptable for use in the United States. In the alternative, I am requesting the opportunity to meet with you to discuss this matter

**THOMPSON
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Attorneys at Law

Mr. Delmer F. Billings

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at the earliest opportunity, and to share with you my color copy of the label chart from the IMDG Code. Because of its potential impact on international commerce, I look forward to prompt resolution of this matter.

Very truly yours,



Norman J. Phillion

Attachment

cc: Ralph Perez, Esq.,
Toyota Motor Sales, U.S.A., Inc.

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