



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

MAR 24 2004

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

Ms. Janet S. Abel
Development Coordinator
Margarita Internacional
PO Box 5569
Yuma, AZ 85366-5569

Ref. No. 04-0036

Dear Ms. Abel:

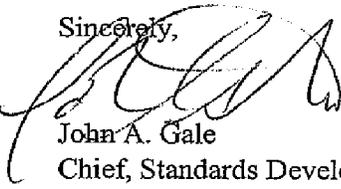
This is in response to your February 19, 2004 letter regarding labeling under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request whether a hazardous material label can be applied to packages of non-hazardous materials.

According to your letter, your company transports non-hazardous agricultural pesticides in overpacks from the United States to other countries which require a "skull and crossbones" symbol on the package containing pesticides. You ask whether a "Poison" label can be applied in the United States to packages of non-hazardous materials. You also ask if the phrase "Not Subject to US DOT Regulations" can be placed adjacent to the "Poison" label on packages and shipping documents.

As provided in § 172.401, prohibited labeling does not apply to a packaging bearing a label specified in the HMR if that packaging is transported in a transport vehicle or freight container in such a manner that the packaging is not visible during transportation. In addition, prohibited labeling does not apply to packages labeled in conformance with the United Nations (UN) Recommendations, the International Maritime Dangerous Goods (IMDG) Code, the International Civil Aviation Organization (ICAO) Technical Instructions, or the Transport of Dangerous Goods (TDG) Regulations. Thus, if the "Poison" label is not visible through the overpack during transportation, you may apply it to packages of non-hazardous material. Further, if you are shipping your material in accordance with UN Recommendations, ICAO Technical Instructions, or the IMDG Code and the "Poison" label is required by the international standard, then you may apply it to the packages of material that are not regulated under the HMR. Under your scenario, a statement such as "non-DOT regulated" or "not subject to U.S. DOT regulation" may appear on the packaging or shipping documents.

I hope this information is helpful.

Sincerely,


John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



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Foster
\$ 172.400
Labeling
04-0036


Margarita Internacional
COMÉRCIO E SERVIÇOS, LIMITADA

February 19, 2004

Mr. Edward Mazzullo
Director, Hazardous Material Stewardship
USDOT/RSPA DHM/8
400 Seventh Street SW
Washington DC 20590

Dear Mr. Mazzullo:

When shipping a non-hazardous agricultural pesticide to another country, which considers the product to be hazardous, can it be labeled as a hazardous material in the U.S.?

I am responsible for the preparation of Msds's and appropriate container labels for Margarita Internacional. Our company sells a pesticide called Botran which contains 75% Dicloran to customers outside of the U.S. This product is not DOT regulated within the U.S. but many other countries will identify ALL pesticides as Poison and require the skull and crossbones on the outer case package. When we ship to these countries, the cases are in an overpack. Would it be legal to label the cases inside the overpack and not label the overpack? Then we could identify the pesticide as "Not Subject to USDOT Regulations". Or, someone suggested that "Not Subject to USDOT Regulations" could be placed adjacent to the Poison, Class 6 label and also on the shipping documents.

Please advise. We won't be shipping this product for several months but I want to be fully prepared when we do.

Sincerely



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