



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

SEP 30 2014

Ms. Lara Currie  
Administrator  
Council on Safe Transportation of Hazardous Articles  
10 Hunter Brook Lane  
Queensbury, NY 12804

Reference No. 14-0165

Dear Ms. Currie:

This is in response to your September 3, 2014 email and subsequent conversation requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the Class 9 miscellaneous hazard class warning label. Specifically, you ask if a Class 9 label conforming to requirements in place on August 18, 2011, containing a horizontal line dividing the upper and lower half of the label, may continue to be used after the October 1, 2014 transition date provided in § 172.446(c).

The answer is yes. In a final rule issued under Docket No. PHMSA-2009-0151 (HM-218F; 76 FR 43510) PHMSA revised the illustration of the Class 9 label in § 172.446(a) by removing the horizontal line dividing the upper and lower halves. The intent of this revision was to harmonize the visual representation of the Class 9 label illustration found in the HMR with that appearing in the UN Model Regulations and relevant international regulations authorized for use by 49 CFR Part 171 Subpart C. While the line no longer appears in the pictorial illustrations within the HMR or international regulations, it is the opinion of this Office the use of the horizontal line does not pose a safety concern and we further note that § 172.446(b) provides that the solid horizontal line dividing the lower and upper half of the label is optional.

In addition, section 172.560 prescribes the requirements for the Class 9 placard. The illustration in § 172.560(a) includes a horizontal center line which is not present in corresponding international standards. As the Class 9 placard is ostensibly similar to the Class 9 label, it is the opinion of this Office that a Class 9 placard without a horizontal center line does not pose a safety concern and as such, a solid horizontal line dividing the lower and upper half of the placard is optional.

I hope this satisfies your request.

Sincerely,

Charles E. Betts  
Director  
Standards and Rulemaking Division



*Council on Safe Transportation of Hazardous Articles*

Wiener  
172.446  
Class 9 Label  
14-0165

August 26, 2014

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Mr. Shane Kelley  
Assistant Intl Standards Coordinator  
US DOT PHMSA  
1200 New Jersey Ave. SE DHM-5 Room 8321  
Washington, DC 20590-0001

Dear Mr. Kelley:

Per our earlier conversation regarding the transition period for the use of the domestic version of the Class 9 labels, several of our members who operate large distribution centers have asked for an extension of the transition period from October 1, 2014 to at least October 1, 2015 for the following reasons.

1. To ensure compliance members plan to conduct a "wall-to-wall" manual verification of inventory to ensure that the domestic labels are replaced by the international labels. This will be an expensive and time consuming process.
2. To further enhance compliance and defray expenses they plan to also incorporate the marking for the new proper shipping name for safety devices simultaneously.

While it may not sound like a major issue, our members repeatedly report citations, frustrated shipments and other actions from local and state police regarding the slightest of variation on labels and markings. Therefore, a complete remarking/relabeling of packagings is required.

The unintentional lack of harmonization in the Class 9 label specification has caused US manufacturers and distributors to be placed at a competitive disadvantage. COSTHA believes that the requested extension of the transition period will help to alleviate the impact while not affecting safety since the horizontal line on the label does not detract from the communication of the hazard of the package contents.

Sincerely,

Lara Mehr Currie  
Administrator

***Council on Safe Transportation of Hazardous Articles***

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## **Goodall, Shante CTR (PHMSA)**

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**From:** Wiener, Aaron (PHMSA)  
**Sent:** Wednesday, September 10, 2014 3:05 PM  
**To:** Dodd, Alice (PHMSA); Goodall, Shante CTR (PHMSA)  
**Subject:** FW: Class 9 Label  
**Attachments:** COSTHA Request for Extension Class 9 Labels.pdf

Alice, Shante,

Can you please log this request as an interp and assign to me.

Thanks

Aaron

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**From:** Kelley, Shane (PHMSA)  
**Sent:** Thursday, September 04, 2014 12:22 PM  
**To:** Wiener, Aaron (PHMSA)  
**Subject:** FW: Class 9 Label



Shane C. Kelley  
Acting International Standards Coordinator  
Office of Hazardous Materials Safety  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
Voice: 202-366-4359  
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<http://phmsa.dot.gov/hazmat>

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**From:** COSTHA Lara Currie [<mailto:lara@costha.com>]  
**Sent:** Wednesday, September 03, 2014 12:37 PM  
**To:** Kelley, Shane (PHMSA)  
**Cc:** [JACK@COSTHA.COM](mailto:JACK@COSTHA.COM); 'COSTHA/Ferguson, Tom'  
**Subject:** Class 9 Label

Hi Shane,  
Sorry for the delay. Attached please find our request for an extension on the Class 9 label.

Kindly advise if you have any questions or need additional information.

If it would be helpful to have a conference call with some of the members we would be happy to make an arrangement.

Best,  
Lara

Lara Currie  
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## Generette, Aris (PHMSA)

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**From:** Generette, Aris (PHMSA)  
**Sent:** Thursday, September 18, 2014 6:00 PM  
**To:** Wiener, Aaron (PHMSA)  
**Subject:** RE: Expedited Interp Letter Concurrence

Aaron:

I understand that there is no safety concern with including or omitting the horizontal line from the Class 9 label, but in its current form, I cannot sign off on the interp. After spending some time with it, I have concerns about telling industry that they have the option to revert back to the label we specifically changed in the HM 218F final rule.

- 1- We need to address in a future rulemaking to remove the line "The solid horizontal line dividing the lower and upper half of the label is optional." This seems to have been inadvertently left in the reg text.
- 2- We gave a generous transition period so that industry would have time to get into compliance.
- 3- I read that the original intent of removing the line was to harmonize with the UN Model Regs and other international regs so as to alleviate the frustration and delay of shipments. By telling industry that they now have the option of continuing to use the horizontal line label, doesn't that take us back to square 1? And thus won't the delay of shipments continue?
- 4- I see domestic enforcement problems on the horizon by issuing this interp...investigators will write up the horizontal line label as a violation.

I understand the time constraints with October 1 looming, but I can't sign off as currently written. I have written up my suggested edits and they can be found in the folder. I will also consult with Joe Solomey and get his take, since ultimately he signs off for PHC.

Thanks,

Aris

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**From:** Wiener, Aaron (PHMSA)  
**Sent:** Thursday, September 11, 2014 12:39 PM  
**To:** Raksnis, Richard (PHMSA); Patterson, Tyler (PHMSA)  
**Cc:** Generette, Aris (PHMSA); Kelley, Shane (PHMSA); Babich, Vincent (PHMSA); Benedict, Robert (PHMSA)  
**Subject:** Expedited Interp Letter Concurrence

Rick, Tyler,

We are requesting expedited review and concurrence for the attached interp letter. This is due to the end of the transition period on October 1<sup>st</sup> for the old class 9 label. Your concurrence is respectfully requested by early next week.

Please let me know if you require any additional information.

Thanks

**Aaron Wiener**  
Transportation Specialist  
Standards and Rulemaking Division  
Office of Hazardous Materials Safety  
Pipeline and Hazardous Materials Safety Administration

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