



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

NOTICE OF EXTENSION OF ENFORCEMENT DISCRETION REGARDING CONTINUED MANUFACTURING OF PERFORMANCE ORIENTED PACKAGING (POP) DESIGNS THAT HAVE EXCEEDED THEIR PERIODIC RETESTING DATE

Due to the Coronavirus Disease 2019 (COVID-19) public health emergency, the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) has received several inquiries from members of the regulated community requesting an extension of the enforcement discretion for the periodic retest date requirements (see §§ 178.601(e), 178.801 (e), 178.955(e), and 178.1035(e)) for packaging used in the transportation of hazardous materials.

On April 20, 2020, PHMSA published a notice of enforcement discretion stating that it would not take enforcement action against any company that continues to manufacture a United Nations (UN) performance oriented packaging conforming to a tested design that is not more than 90 days beyond its periodic retest date.¹ Specifically, the relief applies to manufacturers of non-bulk packagings, as well as intermediate bulk containers (IBCs), large packagings, and flexible bulk containers. This relief only applies to designs tested and certified for Packing Group (PG) II (Y-marked) or PG III (Z-marked) hazardous materials. PG I (X-marked) designs are not eligible for this enforcement discretion.

PHMSA gives notice that it will continue to not take enforcement action against any company that continues to manufacture a UN performance oriented packaging conforming to a tested design that is not more than 90 days beyond its periodic retest date in accordance with the April 20, 2020, Notice of Enforcement Discretion. This document is a temporary notice of enforcement discretion. Regulated entities may rely on this notice as a safeguard from departmental enforcement as described herein. To the extent this notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way. This Notice of Enforcement Discretion is effective through October 31, 2020.

Issued July 9, 2020, in Washington D.C.

William S. Schoonover
Associate Administrator
for Hazardous Materials Safety

¹ See April 20, 2020, enforcement discretion at: <https://www.phmsa.dot.gov/news/phmsa-notice-enforcement-discretion-manufacturing-packaging-designs-beyond-retesting-dates>