



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

April 15, 2020

Mr. Jeremy Pogorelec  
Product & Process Chemist  
United Initiators, Inc.  
555 Garden Street  
Elyria, OH 44035

Reference No. 19-0105

Dear Mr. Pogorelec:

This letter is in response to your emails from August 15 and 26, 2019, as well as your August 26, 2019, telephone conversation with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the use of International Maritime Dangerous Goods Code (IMDG Code) hazard class warning labels. Specifically, you ask whether these labels may remain on packages of “UN3116, Organic peroxide, type D, solid, temperature controlled (Dimyristyl peroxydicarbonate), Division 5.2,” imported from Germany by vessel into the United States until these packages reach the final destination indicated on the shipping document.

You have noted the following:

- Your company is the final destination that appears on the shipping documents when the organic peroxide is sent from Germany to the United States.
- The organic peroxide your company receives is not a marine pollutant.
- Your company prepares new shipping documents to forward this material to your client, a distributor that delivers the organic peroxide to an end user.
- Sections 172.407(f) and 172.519(f) permit IMDG Code labels and placards, respectively, to be used in place of corresponding U.S. Department of Transportation (DOT) labels and placards, but your client requests that your company cover each IMDG Code label with the appropriate DOT label before the packages are transported in the United States. Your client notes the Pipeline and Hazardous Materials Safety Administration (PHMSA) clarification letter Reference No. 12-0253 supports this position by stating:
  - *If the shipping document identifies the shipment as a through-shipment and identifies the final destination of the movement to be other than the logistic company's terminal, the shipment may continue to that final destination point in accordance with the IMDG Code.*
  - *However, if the shipping document identifies the logistic company's terminal as the final destination of the hazardous material, the shipment must be brought into full compliance with the HMR prior to any further movement.*

The answer is yes, the IMDG labels can remain on the packages you describe as long as they accurately reflect the hazardous contents of the packages. In this instance, DOT labels are not necessary. The HMR contain exceptions concerning the labeling and placarding of hazardous materials during transportation. One exception permits a label, except for materials poisonous-by-inhalation, that conforms to applicable international requirements to be used in place of a corresponding label that conforms to the HMR (see § 172.407(f)). This labeling exception is not contingent on the use of international standards and may be applied to packages prepared solely in conformance with the HMR.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

*T. Glenn Foster*

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

**Dodd, Alice (PHMSA)**

**From:** INFOCNTR (PHMSA)  
**Sent:** Friday, August 16, 2019 3:41 PM  
**To:** Hazmat Interps  
**Subject:** FW: Letter of Interpretation Request - United Initiators

Hi Alice and Ikeya,

Please see the letter of interpretation request below.

Thank you,  
Kathryn, HMIC

**From:** Pogorelec Jeremy [mailto:Jeremy.Pogorelec@united-in.com]  
**Sent:** Thursday, August 15, 2019 11:35 AM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Letter of Interpretation Request - United Initiators

Hello!

I am writing to you today to request a LOI on a particular situation I am in with one of my customers and we are looking for guidance.

I have spent a considerable amount of time recently researching personally and with PHMSA reps in order to find a solution to our customer requesting us to relabel product with US DOT 5.2 labels.

We are getting in a product from Germany and our US customer (who is a distributor and NOT end user) is requiring us to slap a DOT label over the IMDG label. This is taking time and money to do this. Our customer has an Interpretation Letter from 2013 which states:

Therefore, following vessel transport, if the shipping document identifies the shipment as a through-shipment and identifies the final destination of the movement to be other than the logistic company's terminal, the shipment may continue to that final destination point in accordance with the IMDG Code. However, if the shipping document identifies the logistic company's terminal as the final destination of the hazardous material, the shipment must be brought into full compliance with the HMR prior to any further movement.

While I was searching into my own Interpretation Letter, I found paragraph (f) in §172.407 Label Specifications which states:

**(f) Exceptions.** Except for materials poisonous by inhalation (see §171.8 of this subchapter), a label conforming to specifications in the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or the Transport Canada TDG Regulations (IBR, see §171.7 of this subchapter) may be used in place of a corresponding label that conforms to the requirements of this subpart.

This is what I called PHMSA to help me understand if I was reading this correctly and they said I was! They said this was a recent change which was verified and published in the Federal Register on 11/7/2018 (Effective Date 12/7/2018):

The image is a screenshot of the Federal Register website. At the top, it features the "FEDERAL REGISTER" logo with the subtitle "The Daily Journal of the United States Government" and the Department of Justice seal. A "Rule" icon is visible in the top right. The main title of the document is "Hazardous Materials: Response to Petitions From Industry To Modify, Clarify, or Eliminate Regulations". Below the title, it states "A Rule by the Pipeline and Hazardous Materials Safety Administration on 11/07/2018". The page is divided into a main content area and a "DOCUMENT DETAILS" sidebar on the right. The main content area includes sections for "AGENCY:", "ACTION:", "SUMMARY:", and "DATES:". The "AGENCY:" section identifies the Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT. The "ACTION:" section is labeled "Final rule." The "SUMMARY:" section describes the rulemaking process, stating that PHMSA is amending hazardous materials regulations in response to 19 petitions to update, clarify, streamline, or provide relief from various requirements. The "DATES:" section notes the effective date as December 7, 2018. The "DOCUMENT DETAILS" sidebar provides additional information: "Printed version: PDF", "Publication Date: 11/07/2018", "Agencies: Pipeline and Hazardous Materials Safety Administration", "Dates: Effective date: This rule is effective December 7, 2018.", "Effective Date: 12/07/2018", "Document Type: Rule", "Document Citation: 83 FR 55792", "Page: 55792-55811 (20 pages)", and "CFR: 49 CFR 171, 49 CFR 172, 49 CFR 173, 49 CFR 176".

**FEDERAL REGISTER**  
The Daily Journal of the United States Government

**Hazardous Materials: Response to Petitions From Industry To Modify, Clarify, or Eliminate Regulations**

A Rule by the Pipeline and Hazardous Materials Safety Administration on 11/07/2018

**AGENCY:**  
Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:**  
Final rule.

**SUMMARY:**  
In this rulemaking, PHMSA is amending the Hazardous Materials Regulations in response to 19 petitions for rulemaking submitted by the regulated community to update, clarify, streamline, or provide relief from miscellaneous regulatory requirements. By adopting these deregulatory amendments, PHMSA is allowing more efficient and effective ways of transporting hazardous materials in commerce while maintaining an equivalent level of safety.

**DATES:**  
*Effective date:* This rule is effective December 7, 2018.

**DOCUMENT DETAILS**

**Printed version:**  
PDF

**Publication Date:**  
11/07/2018

**Agencies:**  
Pipeline and Hazardous Materials Safety Administration

**Dates:**  
*Effective date:* This rule is effective December 7, 2018.

**Effective Date:**  
12/07/2018

**Document Type:**  
Rule

**Document Citation:**  
83 FR 55792

**Page:**  
55792-55811 (20 pages)

**CFR:**  
49 CFR 171  
49 CFR 172  
49 CFR 173  
49 CFR 176

Page 55795 Section 3: INTERNATION LABEL AND PLACARD CONSISTENCY show when and how this paragraph (f) was made.

### 3. INTERNATIONAL LABEL AND PLACARD CONSISTENCY

In petition P-1620, Labelmaster Services requested revisions to the HMR to address inconsistencies between international and domestic labels and placards. Specifically, the petition requested revisions to §§ 172.519(f) and 172.407(f) of the HMR to allow for the use of labels and placards conforming to the specifications in the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), the International Civil Aviation Organization Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous Goods (IMDG) Code, or the Transport Canada Transportation of Dangerous Goods (TDG) Regulations.

Upon reviewing the petition, PHMSA found that the requested changes are likely to clarify some regulatory requirements and provisions that exist for the transportation of hazardous materials internationally, and are not likely to be onerous or costly for the regulated community. In the NPRM, PHMSA proposed revisions to §§ 172.519(f) and 172.407(f) of the HMR to allow for the use of labels and placards conforming to the specifications in the UN Recommendations, ICAO Technical Instructions, IMDG Code, or TDG Regulations.

In response to the proposed changes in the NPRM, PHMSA received comments from Clifford Bartley, Council on the Safe Transport of Hazardous Articles (COSTHA), and International Vessel Operators Dangerous Goods Association (IVODGA). All commenters expressed support for PHMSA adopting these provisions as written. Additionally, COSTHA added that the proposed changes would not increase the burden on shippers. PHMSA agrees with the commenters and is therefore incorporating the changes in §§ 172.519(f) and 172.407(f) of the HMR as proposed.

paragraph (f) in §172.519 General Specifications for placards states:

**(f) Exceptions.** When hazardous materials are offered for transportation or transported under the provisions of subpart C of part 171 of this subchapter, a placard conforming to the specifications in the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or the Transport Canada TDG Regulations (IBR, see §171.7 of this subchapter) may be used in place of a corresponding placard conforming to the requirements of this subpart. However, a bulk packaging, transport vehicle, or freight container containing a material poisonous by inhalation (see §171.8 of this subchapter) must be placarded in accordance with this subpart (see §171.23(b)(10) of this subchapter).

→I think the take away is *the IMDG label is ok to be used to ship to our customer and then to end user as long as it is in code with IMDG specifications.*

Can you please confirm:

1. you have received this email
2. an expected completion of the LOI
3. eliminate any customer or product names if I missed them

Please let me know if there is anything else I can help with or clarify. Thank you!!

**Jeremy Pogorelec**  
Product & Process Chemist  
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