



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 4, 2020

Ms. Kristie Absher
Senior Consultant
Environmental Resource Center
101 Center Pointe Dr.
Cary, NC 27513-5706

Reference No. 20-0020

Dear Ms. Absher:

This letter is in response to your March 4, 2020, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to hazardous materials communication requirements for marine pollutants shipped domestically when not subject to the HMR. In your letter, you describe a scenario where your company receives packages shipped to the United States by vessel that have markings and labels that do not comply with those required in the International Maritime Dangerous Goods Code (IMDG Code). Specifically, you state that the Class 9 labels and the UN number markings are smaller than what is authorized in the IMDG Code.

We have paraphrased and answered your questions as follows:

- Q1. In a previous Letter of Interpretation on this subject issued on December 23, 2013, under Reference No. 13-0192, PHMSA stated: “The marking and labels that were required to be affixed to the packages for transportation by vessel in accordance with the IMDG Code need not be removed or covered for subsequent domestic transportation.” You ask whether the labels and UN number markings may remain on the packages even if they do not comply with the IMDG Code.
- A1. In general, the answer is no. However, in the scenario described in your letter, provided the labels and UN markings meet the design and visibility specifications of the IMDG Code and are of a size that is legible on the packaging, even though smaller than what is authorized in the IMDG Code, it would be allowable for them to remain on the packages. It should be noted that shipments that have labels and markings that are undersized, even when not regulated, are likely to experience delays.
- Q2. Section 171.22 specifies authorizations and conditions for the use of international standards and regulations. You ask whether a domestic importer is required to notify the international party responsible for shipping a material that is not subject to the HMR but does not comply with the IMDG Code.

A2. The answer is no, provided any potential violation of the IMDG Code would have occurred outside the United States as defined in § 171.8 and the material is not subject to the HMR. However, in this instance, the United States Coast Guard would conduct inspections based on the requirements of the IMDG Code, the regulations utilized for transportation, and could take enforcement action if the full shipment is not in compliance with the IMDG Code. We recommend that the importer communicate the violation to the international shipper to prevent continued complications and delays in future shipments.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

Pallack
2.0-0020

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Wednesday, March 4, 2020 2:19 PM
To: Hazmat Interps
Subject: FW: Request for interpretation
Attachments: RequestforInterpretationAbsherMarch2020.docx; Kristie Absher LOI.docx

Hello Alice and Ikeya,

Attached is a request for letter of interpretation.

Thanks,

Jonathon, HMIC

From: Kristie Absher [mailto:kabsher@ercweb.com]
Sent: Wednesday, March 4, 2020 12:21 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for interpretation

Dear DOT Representative:

Attached is a letter requesting an interpretation on importing marine pollutants the reshipping them domestically.

If I need to mail the request instead, please let me know.

Thank you,
Kristie Absher
Environmental Resource Center
101 Center Pointe Dr.
Cary, NC 27513
919-469-1585 x 402
919-342-0807 fax
kabsher@ercweb.com
<http://www.ercweb.com>

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March 4, 2020

Mr. Shane Kelley
Director, Standards and Rulemaking Division
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Dear Mr. Kelley:

I have some questions on importing marine pollutants that are regulated by IMDG Code but not by DOT.

A U.S. company imports IMDG Code marine pollutants that are classified as UN 3077, Environmentally hazardous substance, solid, n.o.s., 9, III or UN 3082, Environmentally hazardous substance, liquid, n.o.s., 9, III. The packages have marks and labels that do not comply fully with the IMDG Code. Specifically, the Class 9 labels and UN number marks are smaller than the IMDG Code requires. The other marks are correct.

The imported materials are not regulated by DOT or when reshipped domestically. Based on previous interpretations, including Ref. No.:13-0192, the U.S. company is not required to remove or cover the international vessel hazard marks and labels for subsequent domestic transportation.

Does the exception from removing or covering the vessel hazard marks and labels apply even when the marks and labels do not comply with the IMDG Code?

Does the U.S. company who imports the materials have any requirements related to 49 CFR 171.22(f)? For example, does the importer have to notify the overseas shipper and/or forwarding agent at the place of entry into the U.S., about the erroneous sizes of the label and UN number mark? Again, the material is not regulated as hazardous for domestic shipments.

Thank you for your assistance with these questions.

Sincerely,

Kristie Absher
Senior Consultant