

April 19, 2023

Steve Laughlin  
Regulatory & Waste Specialist  
519 Hillcrest Lane  
Lindenhurst, IL 60046

Reference No. 23-0005

Dear Mr. Laughlin:

This letter is in response to your January 19, 2023, email and subsequent discussion with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the classification of hazardous materials and assignment of subsidiary hazards to existing entries on the § 172.101 Hazardous Materials Table (HMT).

We have paraphrased and answered your questions as follows:

- Q1. You ask whether it is permissible for a shipper to classify a material differently than indicated on the manufacturer's safety data sheet (SDS) if the shipper knows that the SDS classification is incorrect.
- A1. The answer is yes. In accordance with § 173.22, it is the shipper's responsibility to classify a hazardous material. As provided in § 171.2(b), each offeror—i.e., the shipper—may rely on information provided by another offeror, unless that offeror knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by another offeror is incorrect. If an offeror has knowledge that the information provided by another entity regarding the classification of a hazardous material is incorrect, they must accurately classify the material prior to offering it for transportation.
- Q2. You ask whether a shipper is required to label a package with a subsidiary hazard label if the shipper knows that the material meets that subsidiary hazard classification, even if that hazard is not included in the § 172.101 HMT entry for the material.
- A2. The answer is yes. It is the shipper's responsibility to determine if a material has subsidiary hazards that require subsidiary hazard labels. As provided in § 172.101(g), provisions in § 172.402 may require that a label other than that specified in Column 6 of the HMT be affixed to the package in addition to that specified in Column 6.

CONCUR:
ROUTING PHH-11
INITIALS EP
DATE 2/8/2023
ROUTING PHH-11
INITIALS DDK
DATE 2/9/2023
ROUTING PHH-10
INITIALS MBN w/ edits
DATE 2/10/2023
ROUTING PHH-21
INITIALS AWD
DATE 3/13/2023
ROUTING PHH-21
INITIALS RJV
DATE 3/15/2023
ROUTING Field Ops
INITIALS KM (via email)
DATE 3/29/2023
ROUTING PHC-10
INITIALS BSB
DATE 4/14/23







U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

April 19, 2023

Steve Laughlin  
Regulatory & Waste Specialist  
519 Hillcrest Lane  
Lindenhurst, IL 60046

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- Q2. You ask whether a shipper is required to label a package with a subsidiary hazard label if the shipper knows that the material meets that subsidiary hazard classification, even if that hazard is not included in the § 172.101 HMT entry for the material.
- A2. The answer is yes. It is the shipper's responsibility to determine if a material has subsidiary hazards that require subsidiary hazard labels. As provided in § 172.101(g), provisions in § 172.402 may require that a label other than that specified in Column 6 of the HMT be affixed to the package in addition to that specified in Column 6.

Please note there are circumstances where it is impermissible to modify an entry with additional hazards, including materials classified by an approval from the Associate Administrator and entries with a “+” sign in Column 1 of the HMT, unless authorized by the Associate Administrator (see § 172.101(b)(1)).

- Q3. You ask whether the shipper's responsibility to determine if a material has additional subsidiary hazards applies to all hazardous materials. In particular, you ask whether a Division 5.2 organic peroxide that does not have “Note 13” entered in association with the technical name in the § 173.225 Table 1 to paragraph (c) – the Organic Peroxide Table – may be labeled with a Class 8 subsidiary hazard label if the shipper knows that the material meets the definition of a Class 8 corrosive material.
- A3. The answer is yes, unless the material has been classified and approved for transportation by the Associate Administrator in accordance with the procedures of § 173.128. If a shipper has knowledge that an organic peroxide listed by technical name in the § 173.225 Organic Peroxide Table meets the definition of a Class 8 corrosive material, they must affix a Class 8 label and describe the material accordingly, even if the Organic Peroxide Table entry does not include “Note 13.”

If a shipper has knowledge that an organic peroxide material approved by the Associate Administrator meets the definition of a Class 8 corrosive material—but the classification approval document does not list this hazard—the person should submit the information to the Associate Administrator for review and evaluation.

- Q4. You ask whether a shipper is required to provide supporting evidence of additional subsidiary hazards not included in the § 172.101 HMT entry to accompany the shipment. And after transportation is completed, you further ask whether a shipper is required to provide the supporting evidence to an authorized official of a Federal, State, or local government agency upon request.
- A4. The HMR do not require that records of classification determination be made available during transportation. However, providing supporting evidence—during shipment—of a classification determination in this circumstance may reduce confusion and the likelihood of a frustrated shipment. Maintaining easily accessible copies of such records is encouraged to promote clarity. Please note that an agency action, such as the Associate Administrator’s classification approval of an explosive, self-reactive, or organic peroxide material may require that data associated with the classification of the material be retained by the manufacturer, test laboratory, or other party.

Lastly, as part of an enforcement action, a shipper may be required to provide the records of classification determination to an authorized official of a Federal, State, or local government agency upon request. Please see 49 CFR Part 109 for procedural requirements that PHMSA investigators will follow in an investigation.

Q5. You ask whether a shipper is required to include a subsidiary hazard in the basic description on the hazardous materials shipping paper as required in § 172.202(a)(3).

A5. The answer is yes. A hazardous materials shipping paper entry for a package containing a material with a subsidiary hazard must display the hazard class or division number in parentheses after the primary hazard class or division in the basic description. This includes circumstances in which the shipper has modified an existing HMT entry to account for additional subsidiary hazards.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen".

Dirk Der Kinderen  
Chief, Standards Development Branch  
Standards and Rulemaking Division

Patrick

23-0005

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#)  
**Cc:** [Hazmat Interps](#)  
**Subject:** FW: Request for interpretation - Altering HMT entries  
**Date:** Tuesday, January 24, 2023 1:46:47 PM  
**Attachments:** [LOI Altering DOT Descriptions .docx](#)

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Hi Alice,

Please see the attached interpretation request.

Additionally, the requestor's physical address is:

519 Hillcrest Lane  
Lindenhurst, IL 60046

Please let me know if you need anything else.

Regards,

-Breanna

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**From:** Steve Laughlin <[steve@curaes.com](mailto:steve@curaes.com)>  
**Sent:** Thursday, January 19, 2023 10:07 AM  
**To:** INFOCNTR (PHMSA) <[INFOCNTR.INFOCNTR@dot.gov](mailto:INFOCNTR.INFOCNTR@dot.gov)>  
**Subject:** Request for interpretation - Altering HMT entries

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear PHMSA,

Would appreciate an interpretation on the following

**Steve Laughlin**  
**Regulatory & Waste Specialist**  
**224-381-3943**  
[steve@curaes.com](mailto:steve@curaes.com)

January 7, 2023

U. S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Sir/Madame,

Is it permissible to change or add information to entries found in the Hazardous Materials Table? Specifically, we encountered a situation where a shipper added a secondary hazard of corrosivity to the entry in the table for UN3109, Organic peroxide, type F liquid, 5.2

Additionally, we have come across several products that included packing groups to 5.2 designated materials where none exist in the hazardous materials table.

Please advise.

A handwritten signature in cursive script that reads "Steve Laughlin". The signature is written in black ink and is positioned above the printed name.

Steve Laughlin