



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

November 6, 2023

Elizabeth M. Richardson  
1900 N Street NW  
Suite 100  
Washington, DC 20036

Reference No. 23-0069

Dear Ms. Richardson:

This letter is in response to your July 24, 2023, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to organic peroxides. Specifically, you ask for clarification on the bulk packaging requirements for “UN3109, Organic peroxide, type F, liquid, 5.2, 8, (Peracetic acid  $\leq$  23% hydrogen peroxide).” Although this hazardous material is not listed in the § 173.225(g) Organic Peroxide Portable Tank Table, you seek confirmation of your understanding that it may be transported in cargo tank motor vehicles because the § 173.225(h)(2) provisions do not specify any particular organic peroxide authorized for transport.

Your understanding is not correct. Section 173.225(h) states that “bulk packagings are authorized—subject to the conditions and limitations of this section—if the organic peroxide is listed in the Organic Peroxide Portable Tank Table and bulk packagings are authorized, *or* if the organic peroxide is specifically authorized for transport in a bulk packaging by this paragraph (h).” UN3109, Peracetic acid  $\leq$  23% hydrogen peroxide is neither listed in the Organic Peroxides Portable Tank Table nor is it specifically authorized in bulk packages by § 173.225(h); therefore, it may not be transported in cargo tank motor vehicles without prior approval by the Associate Administrator.

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

**Jones, Jessie Jane CTR (PHMSA)**

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**From:** Dodd, Alice (PHMSA)  
**Sent:** Thursday, July 27, 2023 1:41 PM  
**To:** Jones, Jessie Jane CTR (PHMSA)  
**Subject:** FW: Request for PHMSA Interpretation of 49 CFR 173.225(h)  
**Attachments:** 2023-07-24 Letter to PHMSA re Interpretation of 173.225(h).pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Sent:** Thursday, July 27, 2023 12:56 PM  
**To:** Dodd, Alice (PHMSA) <Alice.Dodd@dot.gov>  
**Cc:** Hazmat Interps <hazmatinterps@dot.gov>  
**Subject:** FW: Request for PHMSA Interpretation of 49 CFR 173.225(h)

Hello Alice,

Please see the attached interpretation request.

Let us know if you need anything else.

Regards,

-Breanna

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**From:** Elizabeth M. Richardson <[ERichardson@bdlaw.com](mailto:ERichardson@bdlaw.com)>  
**Sent:** Monday, July 24, 2023 5:25 PM  
**To:** PHMSA HM InfoCenter <[PHMSAHMInfoCenter@dot.gov](mailto:PHMSAHMInfoCenter@dot.gov)>  
**Subject:** Request for PHMSA Interpretation of 49 CFR 173.225(h)

**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.

To whom it may concern:

Please see attached letter requesting an interpretation of 49 CFR § 173.225(h). Please let me know if you need anything else to process this request.

Sincerely,

**Elizabeth M. Richardson**  
Principal



1900 N Street, NW, Suite 100 ~ Washington, DC 20036 ~ [bdlaw.com](http://bdlaw.com)  
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July 24, 2023

**SUBMITTED VIA EMAIL**

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  
[infocntr@dot.gov](mailto:infocntr@dot.gov)

Re: Request for Interpretation on Shipping Peracetic Acid

Dear Mr. Kelley:

I am writing to request confirmation that certain cargo tank motor vehicles may be used to transport UN 3109, Organic peroxide, type F, liquid (Peracetic Acid  $\leq$  23% hydrogen peroxide), 5.2, 8. This material has been approved as a type of organic peroxide, and it is specifically listed in the Organic Peroxide Table in 49 C.F.R. § 173.225(c) as “Peroxyacetic acid or peracetic acid [with not more than 26% hydrogen peroxide], UN 3109” with a Class 8 subsidiary hazard.

49 C.F.R. §173.225(h) provides that certain bulk packagings may be used to transport organic peroxides “if the organic peroxide is listed in the Organic Peroxide Portable Tank Table and bulk packagings are authorized, *or* if the organic peroxide is specifically authorized for transport in a bulk packaging by this paragraph (h), and the bulk packaging conforms to the requirements of this subchapter.” 49 C.F.R. §173.225(h) (emphasis added). Peracetic acid (UN 3109) is not among the Type F organic peroxides that are listed in the Portable Tank Table in 49 C.F.R. § 273.225(g).

Even though peracetic acid is not listed in the Portable Tank Table, can you please confirm that peracetic acid may be transported in the cargo tank motor vehicles MC 307, MC 310, MC 311, MC 312, DOT 407, and DOT 412 with a tank design pressure of at least 172 kPa (25 psig) as listed in 49 C.F.R. § 173.225(h)(2)? This Section does not specifically mention any particular types of organic peroxides, and we believe this means that peracetic acid with no more than 26% hydrogen peroxide can be transported in these cargo tanks because it is “authorized for transport in a bulk packaging by this paragraph (h)” as long as “the bulk packaging conforms to the requirements of this subchapter.” *See* 49 C.F.R. §173.225(h).

In contrast, Section 173.225(h)(3) provides that certain portable tanks may be used, except that the Associate Administrator must approve portable tanks for Type F organic peroxides that are not listed in the Portable Tank Table. We interpret this to mean that portable tanks would not be authorized for transporting peracetic acid with no more than 26% hydrogen peroxide without an approval from the Associate Administrator. Because no such limitation is placed on cargo tank motor vehicles in Section 173.225(h)(2), we believe cargo tank motor vehicles are authorized by this section.

Therefore, we request confirmation that UN 3109, Organic peroxide type F, liquid (Peracetic Acid  $\leq$  23% hydrogen peroxide), 5.2, 8 may be transported in the cargo tank motor vehicles listed in 49 C.F.R. §173.22(h)(2).

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth M. Richardson". The signature is written in a cursive style with a long, sweeping underline.

Elizabeth M. Richardson

Principal  
Beveridge & Diamond, PC

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