



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

SEP -3 2008

1200 New Jersey Ave., S.E.  
Washington, DC 20590

Mr. John A. McQuaid  
Industrial Packaging Alliance of North America  
1101 14<sup>th</sup> St., N.W. Suite 1001  
Washington, DC 20005

Ref. No. 07-0209

Dear Mr. McQuaid:

This is in response to your e-mail regarding the Hazardous Materials Regulations (HMR; 49 CFR 171-180) applicable to container closure notification requirements. We apologize for the delay in responding and hope it has not caused any inconvenience. In your email, you request that the Pipeline and Hazardous Materials Administration (PHMSA) reconsider the current limitation that precludes the use of electronic media (i.e., via e-mail or CD Rom) to provide container closure notification information in accordance with § 178.2 of the HMR.

In accordance with the notification provision in § 178.2(c), the manufacturer and each subsequent distributor of a United Nations (UN) packaging must provide written notification instructions of all regulatory requirements not met at the time of transfer, and any closure notification necessary to properly assemble and close a packaging. Therefore, written (i.e., hard copy) notification must be provided to meet the requirement in § 178.2(c). An electronic format, such as an e-mail or a CD Rom, may currently be used only as a supplement to the written notification.

However, in response to your request, we are considering a revision to § 178.2(c) to allow, with certain restrictions, the manufacturer and each subsequent distributor of a UN packaging the option of providing a container closure notification in either a written or an electronic format (i.e., via e-mail or a CD Rom). This issue will be addressed as a petition in a future rulemaking.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards

Foster  
 §178.1  
 §178.819  
 Testing  
 07-0209

**Drakeford, Carolyn <PHMSA>**

**From:** Gorsky, Susan <PHMSA>  
**Sent:** Thursday, October 25, 2007 9:46 AM  
**To:** Drakeford, Carolyn <PHMSA>  
**Subject:** FW: PMHSA Interpretation on Requirement for Closure Notification Information  
**Importance:** High  
**Attachments:** SSCI Req. on Closure Instructions.htm

Carolyn,

Please log this in as an interp. Thanks.

Susan

**From:** Lima, Anthony <PHMSA>  
**Sent:** Thursday, October 25, 2007 9:06 AM  
**To:** Gorsky, Susan <PHMSA>  
**Subject:** FW: PMHSA Interpretation on Requirement for Closure Notification Information  
**Importance:** High

Here is request for clarification on authorized electronic notification methods for assembly and closure. John McQuaid did not actually request a response, not technically. He just asked us to re-evaluate our position. Will we be able to give additional guidance based on his correspondence, or should I have him rephrase? Thanks.

Anthony Lima  
 Packaging Program Manager  
 Special Investigations  
 Office of Hazardous Materials Enforcement  
 U.S. DOT/PHMSA  
 Washington, D.C.

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**From:** John McQuaid [<mailto:mcquaid@industrialpackaging.org>]  
**Sent:** Wednesday, October 24, 2007 2:35 PM  
**To:** Lima, Anthony <PHMSA>; Burger, Donald <PHMSA>  
**Subject:** PMHSA Interpretation on Requirement for Closure Notification Information  
**Importance:** High

Anthony and Don,

Today, using the PHMSA web site electronic portal, I submitted the attached inquiry to the Office of Hazardous Materials Standards on behalf of SSCI members.

10/25/2007

Foster  
§ 178.1  
§ 178.819  
Testing

07-0209

# Your Response Has Successfully Been Sent

The following was submitted to infocntr@dot.gov on Wednesday, October 24, 2007 at 14:05:12.

**Category:** Specifications for Packagings (Sections 178.1 - 178.819)

**Comments/Question:** Dear Mr. Mazzullo, In recent weeks at various industry meetings, there have been separate discussions with Don Burger and Anthony Lima of PHMSA's staff regarding the container closure notification requirement in Section 178.2(c) of the hazardous materials regulations. Longstanding PHMSA letters of interpretation (for example, see PHMSA's June 13, 2003 letter, Ref. No. 03-0069) have taken the position that the conveyance of container closure notification information must be "written (i.e., hard copy)." The agency provided this interpretation in the above-referenced letter in response to an inquiry on whether the written notification requirement could be amended to include a provision that would allow such notification in electronic format on a CD Rom. Our purpose in writing at this time is to respectfully request that PHMSA reconsider the current limitation that precludes the use of electronic media to provide container closure notification information in accordance with Section 178.2(c). The SSCI believes that providing closure notification information via e-mail, or other electronic media (while maintaining compliance with the one-year retention requirement), will foster greater awareness of the required information and, therefore, promote our mutual goal of enhancing the safe transport of hazardous materials. Today, PHMSA and other agencies within DOT, and throughout the Federal government, make extensive use of electronic communications in furtherance of their mandates to serve and protect the public. The SSCI maintains that allowing the dissemination of closure notification information via electronic media is in keeping with the Federal government's commitment to more efficient and informed governance. The SSCI believes use of email and/or other electronic media for providing closure notification should be recognized as fulfilling the requirement that such information be provided in "written" form. Additionally, the use of electronic media for notification allows the manufacturer or other person certifying compliance with Section 178.2(c) to provide the required information to a broader number of affected recipients. Thus, assuring that the closure notification information is communicated to those individuals best positioned to ensure its use in the proper closing of packagings for transport. Thank you for your consideration of this matter.

**Email:** mcquaid@industrialpackaging.org

**Phone:** 2024081900

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