



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

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN -5 2010

Mr. Mark A. Connolly
Manager – Transportation Regulations and Security
Akzo Nobel Chemicals Inc.
525 West Van Buren Street
Chicago, IL 60607-3823

Ref. No.: 09-0275

Dear Mr. Connolly:

This responds to your email dated November 11, 2009 requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the display of marine pollutant marks on non-bulk packagings. You enclosed a picture of a brown box with a preprinted black marine pollutant mark. Your questions are summarized and answered as follows:

Q1. Does PHMSA agree that the mark depicted in the picture does not satisfy the requirement of the HMR or the marking requirements of the International Maritime Dangerous Goods Code (IMDG Code)?

A1. As specified in § 172.322, the marine pollutant mark must be black on a white background or the symbol, border, and background must be of contrasting color to the surface to which the marking is to be affixed. The background of the mark shown in the picture does not contrast with the surface of the box; thus, it does not satisfy § 172.322(e)(2).

Subject to the conditions and limitations in § 171.22, 171.23, 171.24, 171.25, and 171.26, as applicable, hazardous materials may be offered for transportation and transported in the United States in accordance with requirements in the IMDG Code. Therefore, IMDG Code markings such as the marine pollutant mark may be used when hazardous materials are transported to, from or within the United States, provided all or part of the transportation is by vessel. Section 5.2.1.2 of the IMDG Code requires the marine pollutant mark to be displayed on a contrasting background on the external surface of a package. The black marking contrasts with the brown background in the picture you provided; therefore, it satisfies the marking requirements of the IMDG Code and may be displayed in that manner when a package is offered and transported in accordance with the IMDG Code.

Q2. Would the mark be compliant with the HMR if the background of the mark were white?

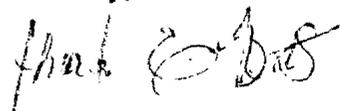
A2. Yes. See § 172.322(e)(2).

Q3. May the marine pollutant mark be placed on an adjacent side of a box when the size of the box is not conducive to placing both the mark and the label on the same side?

A3. Yes. The marine pollutant mark must be placed "in association" with any hazard warning labels (§ 172.322(a)(2)). In this scenario, the placement of the marking on an adjacent side of the box satisfies the "in association" requirement.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is written in a cursive style with some loops and flourishes.

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Eichenlaub

§172.300

§172.322

§172.304

Marking

09-0215

Drakeford, Carolyn (PHMSA)

From: Mazzullo, Ed (PHMSA)
Sent: Tuesday, November 17, 2009 4:50 PM
To: Drakeford, Carolyn (PHMSA)
Cc: Kelley, Shane (PHMSA); PHMSA PHH10
Subject: FW: Marine Pollutant Mark
Importance: High
Attachments: Sample cartons with MP label.jpg

From: Connolly, M (Mark) [mailto:Mark.Connolly@AkzoNobel.com]
Sent: Wednesday, November 11, 2009 5:03 PM
To: Mazzullo, Ed (PHMSA)
Subject: Marine Pollutant Mark
Importance: High

Hi Ed,

A follow-up to our telephone discussion last week regarding marine pollutant marking of nonbulk packaging.

I have obtained the attached photo from our folks in Asia of an example of preprinted marine pollutant mark and 5.2 hazard label on a fiberboard box for transport from Asia via water to the U.S.

It is my interpretation that this mark does not meet DOT requirements for transport within the U.S.

Marine Pollutant mark

Item 1. The marking section of 172.300 does not have a subparagraph which recognizes the UN and IMDG marks (as does the 172.401 for prohibits labels).

Do you agree that this mark does not meet the requirements of 172.322 (e)(2)?

It is my interpretation that since the background of the mark does not contrast with the surface to which the mark is affixed it doesn't not meet DOT or IMO either.

Item 2 Do you agree that to make this acceptable for transport either the background must be white OR they reprint the marine pollutant mark with a white background on the box (it does not come out pearly white but does contrast with the color of the surface of the box.

Item 3. If the surface of the side of the box is not large enough to enable the 5.2 hazard label and the marine pollutant mark to both be affixed – the marine pollutant mark may be affixed to an adjacent side of the box. [172.304, 172.322]

Your feedback is appreciated.

Regards,
Mark