



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

JAN 9 2007

Mr. Dale Austin  
Quality Manager  
Piedmont Plastics, Inc.  
5010 West W.T. Harris Boulevard  
Charlotte, NC 20221-6006

Ref. No.: 06-0273

Dear Mr. Austin:

This is in response to your December 1, 2006 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to over the counter sales. Specifically, you ask if limited quantities of hazardous materials that are reclassified as "consumer commodity, (ORM-D)" are subject to the HMR when sold over the counter to customers at a retail sales establishment.

As specified in § 171.1, the HMR govern the transportation of hazardous materials in intrastate, interstate and foreign commerce. The term "in commerce" means in furtherance of a commercial enterprise. Accordingly, hazardous materials that are sold to customers for personal, non-commercial use and transported by such persons in their personal vehicles are not subject to the HMR. Hazardous materials purchased by a customer to support a commercial enterprise are subject to the HMR.

In addition, in accordance with the materials of trade exceptions, you ask whether your original manufacturer's containers offered for sale via customer pick-up are required to be labeled. The answer is no. In accordance with § 173.6(c)(1) a non-bulk packaging other than a cylinder (including a receptacle transported without an outer packaging) must be marked with a common name or proper shipping name to identify the material it contains, including the letters "RQ" if it contains a reportable quantity of a hazardous substance.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Charles E. Betts  
Senior Transportation Specialist  
Office of Hazardous Materials Standards



060273

171.1  
173.6(c)(1)

Herrera  
\$173.4  
\$173.156

INFOCNTR <PHMSA>

From: DALE AUSTIN [daustin@piedmontplastics.com]  
Sent: Friday, December 01, 2006 9:50 AM  
To: INFOCNTR <PHMSA>  
Subject: Request for Interpretation

ORM & MOT  
06-0273



## Piedmont Plastics, Inc.

5010 West W.T. Harris Blvd.  
Charlotte, NC 20221-6006  
Ph: (800) 277-7898

December 1, 2006

Hazardous Materials Information Center (HMIC)  
U.S. DOT/PHMSA (PHH-10)  
400 7th Street S.W.  
Washington, D.C. 20590-0001

Dear Sir or Madam:

I am writing to request an interpretation about the transportation and sale of hazardous material. See below my questions but first the context.

Piedmont Plastics is a medium size distributor of plastic rod, sheet and tube. As a supplement or accessory to our plastic sales we distribute some adhesives and other chemicals. Most of our chemicals sales are non-regulated. Another large portion of our chemicals sales are limited quantities (ORM-D). A few of our several locations ship regulated material on common carrier, courier or company truck. These locations ship these chemicals per the requirements of 49 CFR Parts 100 to 185. We do not pour or mix chemicals, we do not meet any of the criteria that require registration, nor do we ship in quantities that would require vehicle placarding.

My Questions:

1. A great many of our sales are for customer pickup. Do these sales of Haz Mat fall under the scope of 49 CFR Parts 100 to 185?
2. Several of our locations have storefronts in which customers purchase Haz Mat from a store shelf (as you would at any local hardware). Do these sales of Haz Mat fall under the scope of 49 CFR Parts 100 to 185?
3. From the Materials of Trade exception, the material must be in the original manufacturer's container and does not need outer packaging. The original container must be marked with a common name or a proper shipping name. Is there a requirement that those original manufacturer's containers that we offer for sale via customer pickup be labeled?

Sincerely,

Dale Austin

12/1/2006

[daustin@piedmontplastics.com](mailto:daustin@piedmontplastics.com)  
Quality Manager  
Piedmont Plastics, Inc.

12/1/2006