



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

MAR 23 2006

Dr. Gregory J. Sutherland  
Shane Havoc Consulting, LLC  
1905 English Ivy Ct.,  
Mt. Pleasant, SC 29464

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

Ref. No. 06-0039

Dear Dr. Sutherland:

This is in response to your February 5, 2006 letter requesting clarification regarding the appropriate proper shipping name for your material as specified under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if your client's material, which does not meet the definition of any hazard class except Class 9 for hazardous waste, may be shipped in its original (non-specification) packaging and described as "Environmentally Hazardous Substances, Liquid, n.o.s. (D002), 9, UN 3082, PG III."

Under § 173.22, it is the shipper's responsibility to properly classify a hazardous material and assign it a proper shipping name from the Hazardous Materials Table (HMT). Based on the information provided in your letter and to a member of my staff, it is the opinion of this office that the material should be described as "Hazardous Waste, Liquid, n.o.s (D002), 9, NA 3082, PG III." The material may be offered for transportation in non-bulk packaging in accordance with § 173.203. Section 173.203 does not authorize non-specification packagings; therefore, the original packaging may not be used.

I hope this information is helpful.

Sincerely,

Hattie L. Mitchell, Chief  
Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



060039

172-101  
173-22  
173-203



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**Phone: (843) 849-1463 Fax: (561) 423-3907**

February 5, 2006

Mr. Ed Mazzullo  
U.S. Department of Transportation  
Office of Hazardous Materials Standards  
400 Seventh Street, SW  
Washington, DC 20590

Satterthwaite  
§172.101  
Proper Shipping Name  
06-0039

Dear Sir,

I have a client that has a product that they have tested for Corrosivity as required by 49 CFR 173.137. This product does not corrode skin and the corrosion test results are less than the 6.25 mm corrosion rate on either steel or aluminum. It however has a pH that is 1.9.

The DOT non-regulated product is shipped for distribution in a non-UN package to their customers. The package is designed to fit dispensing machinery and a design to UN standards would be difficult to achieve. It is not an ORM-D since they ship to franchise customers and not the general public.

The weight of the package is a maximum of 55 lbs.

The issue that I have been asked to address is the shipment of out of date material for disposal and what is appropriate packaging.

The EPA defines materials with a pH < 2.0 as a "D002 Hazardous Wastes Characteristic of Corrosivity", this D002 name does not appear in the 172.101 Hazardous Material Table, but it does appear in the Appendix A to the 172.101 table as a "D002 Unlisted Hazardous Wastes Characteristic of Corrosivity". The Appendix lists the RQ as 100 lbs.

The material as packaged does not meet the definition of a Hazardous Substance as defined for the subchapter as listed in 171.8, since it has less than an RQ in a package. This would indicate that UN packages are not required for the D002 Material.

In section 171.3 (a) "No person may offer for transportation or transport a hazardous waste (as defined in §171.8 of this subchapter) in interstate or intrastate commerce except in accordance with the requirements of this subchapter." Seems to indicate that the requirements of the subchapter as defined in 171.8 for Hazardous Substances in packages that weigh less than the RQ should be followed.



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Since this material when sent to a TSDf for disposal, as required by the EPA regulations, would need to be manifested on the EPA waste manifest as a D002 Unlisted waste, the choice of proper shipping name and package required is in question.

The current practice is to collect expired packages on a pallet and stretch wrap them for shipment to a TSDf with a proper shipping name of "Environmentally Hazardous Substances, Liquid, n.o.s. (D002), 9, UN3082, PG III" applied to the stretch wrap with a Class 9 label.

Since the material was shipped as a non-regulated material under DOT originally, it has no DOT proper shipping name or labels on the packages as this was prohibited since the material is not a Hazmat as produced and distributed.

What I need is a DOT ruling on what is the proper interpretation of the regulations regarding packaging, shipping and marking, labeling for this material as it is transported for disposal.

If you need any further clarification to my questions please give me a call at:  
843-849-1463

Sincerely,

Gregory Sutherland