



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

DEC 19 2006

Mr. Larry Moothart
Belshire Environmental Services, Inc.
25971 Towne Center Drive
Foothill Ranch, CA 92619

Reference No.: 06-0253

Dear Mr. Moothart:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding the classification and proper shipping name of a gasoline and water mixture. You ask if the State of Florida may require the mixture to be described as "Petroleum Contact Water," and whether the mixture should be described on the shipping paper as "Gasoline mixture" or "Flammable liquid, n.o.s."

Under the HMR, "Petroleum Contact Water" is not a proper shipping name and may not be used to describe a hazardous material. A hazardous material mixed with a non-hazardous material must be described using the proper shipping name of the hazardous material and the qualifying word "mixture" or "solution," as appropriate, unless any of the provisions in § 172.101(c)(1)(i)(A) through (F) apply. The most appropriate proper shipping name for a gasoline and water mixture meeting the definition of a flammable liquid is "Gasoline mixture, UN1203." The phrase "Petroleum Contact Water" may, however, be indicated following the basic description. A mixture or solution that does not meet the definition of a DOT hazard class, is not a hazardous waste, hazardous substance or marine pollutant is not subject to the HMR.

I trust this satisfies your request.

Sincerely,

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



060253

173.101



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November 1, 2006

Mr. Edward Mazullo
U.S. Department of Transportation
Pipeline and Hazardous Materials Administration
Office of Hazardous Materials Standards
400 Seventh Street, S.W.
Washington, D.C. 20590

Sent via U.S. Mail and fax to (202) 366-3012

Dear Mr. Mazullo

Belshire Environmental Services, Inc. is requesting an interpretation from the DOT concerning the management of gasoline and water mixtures in the State of Florida when shipping gasoline and water mixtures in bulk (2400 gallon to 5,000 gallon vacuum trucks) and non bulk packages (55 gallon drums).

Background

The Florida Department of Environmental Protection (Florida DEP) has adopted management practices for gasoline and water mixtures which are referred to in Florida as "Petroleum Contact Water" (PCW). These management practices were developed by the Florida DEP to promote waste minimization by encouraging the recycling of PCW. Some example sources of PCW include condensate from above ground and below ground gasoline storage tanks, water bottoms or draw down water from a gasoline storage tanks system, gasoline tank filler sump and dispenser sump water and pumpable liquids from gasoline tank cleaning operations.

According to the PCW regulations established by the Florida DEP, when managing gasoline water mixtures from the sources of PCW described in the previous paragraph, the shipper shall identify the material on the shipping paper and the label as "Petroleum Contact Water".

Regulatory Interpretation

It is my understanding that "Petroleum Contact Water" will in most instances meet the definition of a hazardous material. The physical properties of "Petroleum Contact Water" usually consist of a layer of a gasoline floating on the water layer due to the negligible solubility of gasoline in water. When testing the gasoline and water mixture for the flash point, it is anticipated the test will yield a flash point at levels similar to that of gasoline which is below 100 degrees F.

According to the hazardous material regulations, a "flammable liquid" is defined as a material with a flash point of not more than 100 degrees F. The hazardous material regulations (172.202) require that the hazardous material description on the shipping paper is identified with a shipping name in table 172.101, as well as the hazard class, the ID number and the packing group. Additionally, the hazardous material regulations require the shipper to properly mark, label and placard the hazardous material in compliance with Subparts D, E and F of part 172.

Regulatory Concern

It is my understanding that the state of Florida DEP has the authority to mandate the shipping name as "Petroleum Contact Water" when the material is not subject to the Hazardous Material Regulations. However, when the Petroleum Contact Water is a flammable liquid as defined in the hazardous material regulations, it is a violation to use "Petroleum Contact Water" as a proper shipping name.

Corbin
\$172.101
Shipping Name
06-0253

Regulatory Questions

1. Do Florida's PCW regulations as described above violate DOT regulations?
2. Is any State agency authorized to supersede the Hazardous Material Regulations; such as requesting the use of a State specific shipping name for a hazardous material such as "Petroleum Contact Water" rather than a shipping name identified in the hazardous material table 172.101?
3. It is my understanding when managing a hazardous material such as a flammable liquid, the term "Petroleum Contact Water" may be entered on the shipping paper but must be entered on the shipping paper after the basic description. Is this correct?
4. When shipping a flammable liquid mixture consisting of a single hazardous constituent such as gasoline and water mixture, which of the following shipping names is correct?
 - A. Gasoline mixture, 3 UN1203 P.G. II
 - B. Flammable Liquid, n.o.s. 3 UN1993 P.G. II (Gasoline)

Please feel free to contact me at any time.

Best Regards,



Larry Moothart
Belshire Environmental Services, Inc.