



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

OCT 19 1998

Ref. No. 98-0280

Mr. Robert A. Casbill
Field Environmental Specialist
Exxon Company, U.S.A.
1 Avenue J
Bayonne, NJ 07002

Dear Mr. Casbill:

This is in reference to your inquiry concerning the requirements for non-bulk packagings containing marine pollutants under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Specifically, you state that the material, an aviation hydraulic fluid, contains triaryl phosphate, isopropylated in a quantity that meets the definition in § 171.8 of a marine pollutant when transported by vessel. The material is packaged in quantities ranging from one quart cans to 55 gallon drums. You ask if it is acceptable to describe and mark the packages in accordance with the marine pollutant requirements and to mark the packages with a notation stating that they are not regulated by highway, rail or air.

The answer is yes. A marine pollutant packaged in non-bulk packages and offered for transportation by highway, rail or air is not required to conform to the HMR, but it is permissible to do so. You may want to consider revising the wording of your notation to make it less confusing. For example, as related to the HMR; "Non-bulk packages (< 119 gallons) ARE NOT REGULATED BY HIGHWAY, RAIL OR AIR TRANSPORT (49 CFR 171.4)" or, "THIS MATERIAL IS REGULATED WHEN TRANSPORTED BY VESSEL ONLY (49 CFR 171.4)." It is unnecessary to show the notation on your regulated bulk packages.

I hope this information is helpful. If I can be of further assistance, please contact me.

Sincerely,

Hattie L. Mitchell

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