



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

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

JUN 20 2003

Mr. Richard Porter
President
Core Foam
P.O. Box 10393
Knoxville, TN 37939

Ref. No. 03-0085

Dear Mr. Porter:

This is in response to your March 25, 2003 letter, and subsequent telephone conversation with Sandra Webb of my staff requesting clarification as to whether your product described as "Core Foam Foaming Catalyst Concentrate" offered for transportation by your company may be shipped under the description "Consumer commodity, ORM-D" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Your letter refers to your product as consisting of, but not limited to, a liquid blend of acids, surfactants, and other aryl/alkyl sulfonic acids with no more than 5 percent free sulfuric acid. This material is packaged in one-gallon containers, packed four (4) per box and is being offered for transportation as limited quantities under 173.154(b). Also, your letter indicates that the concentrate is not intended for sale through a retail agency but rather a wholesale distributor and is not consumed by individuals for purposes of personal care or household use. In the telephone conversation with Ms. Webb you indicated that your product meets the Packing Group III criteria.

In accordance with 49 CFR 173.22, it is the shipper's responsibility to properly classify a hazardous material for transportation. This Office does not perform this function. In general terms, a consumer commodity is a material that is packaged and distributed in a form intended or suitable for retail sale and personal or household use. This definition includes materials that are suitable for retail sale even if your company does not specifically intend to do so. Therefore, based on the information provided in your letter, it is the opinion of this Office that your product "Core Foam Foaming Catalyst Concentrate" qualifies for the consumer's commodity exception provided under § 173.154(c).

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

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



030085

173.154



Webb
§ 173.154
Consumer Commodity/ORM-D
03-0085

25 March 25, 2003

Edward Mazzullo
Director of Office of Hazardous Materials Standards
USDOT/RSPA (DHM-10)
400 7th Street SW
Washington, DC 20590

Dear Sir:

CoreFoam, Inc. is requesting written clarification on the status of one of its products, "CoreFoam Foaming Catalyst Concentrate," with respect to classification as a Consumer Commodity/ORM-D material.

CoreFoam Foaming Catalyst Concentrate is a liquid blend of acids and surfactants, namely phosphoric acid and other aryl/alkyl sulfonic acids with not more than 5 percent free sulfuric acid. All of the blend constituents meet the criteria for the Limited Quantity Exception 173.154 according to the List of Hazardous Substances. The concentrate is packaged in one gallon containers, packed 4 per box, and is shipped by CoreFoam via common carrier to customers, typically insulation contractors, who have the specialized equipment and training necessary to combine the concentrate with water, resin and compressed air to produce foam insulation which is injected into concrete masonry walls or other enclosed cavities.

CoreFoam, Inc. currently treats the concentrate as a Hazardous Material with respect to labeling and shipping papers and also pays a hazardous material surcharge for all shipments of the product. Other competitor(s) in the industry, however, apparently supply similar products in similar packaging to the same customer base via common carrier yet classify these materials as ORM-D/Consumer Commodity goods, which allows them to avoid the hazardous material surcharge and, by inference, makes their product(s) seem less hazardous.

In reviewing the definitions of ORM-D/Consumer Commodity goods, the classification of CoreFoam Foaming Catalyst Concentrate and other competitive products is unclear. On the one hand the concentrate meets the definition of ORM-D in that a limited hazard is present during transportation due to its form, quantity and packaging. The concentrate clearly appears **not** to be a Consumer Commodity, however, since the intended sales outlet is through wholesale distribution rather than retail sales, the material requires specialized training and equipment to use and the material is not consumed by individuals for purposes of personal care or household use.

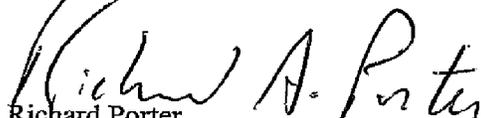
CoreFoam Inc.

P.O. Box 10393 • Knoxville, TN 37939 • 1.800.656.FOAM (3626) • Fax: 865.588.6607 • www.corefoam.com

Can you please clarify whether or not CoreFoam, Inc. can label and ship its Foaming Catalyst Concentrate as an ORM-D/Consumer Commodity material or should continue shipping the goods as a limited quantity of a hazardous material?

If there are questions, please call Richard Porter at 1-800-656-3626. Thanks in advance for addressing this inquiry.

Sincerely,
CoreFoam, Inc.


Richard Porter,
President