



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

MAY 13 2005

Mr. John Foglio  
Degussa Corporation  
379 Interpace Parkway  
Parsippany, NJ 07054-0677

Ref. No. 05-0104

Dear Mr. Foglio:

This is in response to your letter and subsequent telephone conversation with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) for the shipment of a material that you have classified as "Aviation regulated liquid," Class 9, UN3334 for transportation by aircraft. You state that the material is a skin sensitizer and does not meet the definition of any other hazard class, elevated temperature material, hazardous substance, hazardous waste or marine pollutant. Specifically, you ask whether the material is regulated by other modes of transportation and whether it may be shipped as "Aviation regulated liquid," UN3334 when being transported by highway, rail or vessel.

According to your letter, the skin sensitizer would produce an irritating odor and be corrosive to the eyes upon direct contact with the material. Although an irritating odor or other properties that could cause extreme annoyance or discomfort to a flight crew meets the definition for Class 9 (miscellaneous hazardous material) when being transported by aircraft (see § 173.140(a)), such characteristics do not pose a hazard when the material is being transported by other modes of transportation. Therefore, provided the material does not meet the definition of any other hazard class, elevated temperature material, hazardous substance, hazardous waste or marine pollutant and is not a forbidden material (see § 173.21), the skin sensitizer is not regulated for transportation by highway, rail or vessel.

The proper shipping name "Aviation regulated liquid" may be used by modes of transportation other than air. As provided in § 172.101(b)(2), a proper shipping name preceded by an "A" in the § 172.101 Hazardous Materials Table may be used to describe



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173.22

a material for other modes of transportation provided all applicable requirements for the entry are met.

I hope this information is helpful. If you need additional information, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is written in a cursive style with a large initial "H" and "M".

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

McIntyre  
§ 173.22  
Classification  
05-0104

degussa.

creating essentials

April 19, 2005

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U.S. Department of Transportation  
PHMSA  
Office of Hazardous Materials Standards  
DHM-10  
400 7<sup>th</sup> st. S.W.  
Washington, DC 20590-0001

Re: Class 9

Dear Madam / Sir,

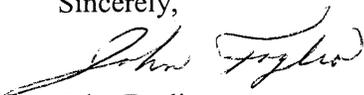
We ship a material that is considered an Aviation Regulated Liquid, UN 3334 for shipments by air. A precedes the entry in 172.101, which tells that the material is regulated for shipments by air only. This material does not meet the definition of elevated temperature material, hazardous substance, hazardous waste or marine pollutant. When we ship this material by modes other than air, must it be shipped as Environmentally Hazardous Liquid, class 9? If not, is it permitted to ship it as class 9?

We ship a material that does not fit into any of the definition of class 1 through class 8. It is, however, corrosive to the eyes. Because of this hazard, must it be shipped as class 9? If not, is it permitted to ship it as class 9?

We ship a material, which is a skin sensitizer. It does not meet the definition of elevated temperature material, hazardous substance, hazardous waste or marine pollutant. Must this material be shipped as class 9 because of its skin sensitizing hazard? If not, is it permitted to ship it as class 9?

Please advise. Thank you.

Sincerely,



John Foglio  
Manager Hazardous Materials  
Transportation Safety