



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

July 10, 2024

Mr. David M. Comen  
President  
Artisan EHS Consulting, LLC  
104 Knoxwood Court  
Anderson, SC 29621

Reference No. 15-0227R

Dear Mr. Comen:

This letter is a revised response to your November 18, 2015, email and subsequent conversations requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the selection of a proper shipping name for a hazardous waste. You present a general scenario where clarified slurry oil tank sediment of in-line filter/separation solids that do not meet the defining criteria for hazard classes 1-8 are shipped domestically in bulk containers with the following basic description, “RQ, NA3077, Hazardous waste, solid, n.o.s. (K170), 9, PGIII” or “RQ, NA3082, Hazardous waste, liquid, n.o.s. (K170), 9, PGIII.”

Recently, follow-up questions regarding answers A5 and A6 were brought to our attention. As such, PHMSA is revising this response to further explain § 172.102, special provision 8 and the application to “NA3077, Other regulated substances, solid, n.o.s.” and “NA3082, Other regulated substances, liquid, n.o.s.”

We have paraphrased and answered your questions as follows:

- Q1. As a hazardous waste, the K170 hazardous waste is a DOT hazardous material?
- A1. Per the definition of a hazardous substance from § 171.8, if the quantity of material meeting the K170 waste code equals or exceeds the reportable quantity shown in Appendix A to § 172.101 in one package, the waste would be considered a DOT hazardous substance. A hazardous substance is a hazardous material per the definition of a hazardous material in § 171.8.
- Q2. Since the quantity of waste meeting waste code K170 is greater than the reportable quantity shown in Appendix A to § 172.101, the waste as packaged is a DOT hazardous substance?
- A2. Yes. See answer A1.

- Q3. In accordance with § 172.203(k)(2)(i), the use of the EPA waste code K170 with the DOT proper shipping name or basic description is sufficient as the technical name for a hazardous material such as “RQ, NA3077, Hazardous waste, solid, n.o.s. (K170), 9, PGIII.”
- A3. This basic description is appropriate for the scenario described. It is important to note however that § 172.203(k)(2)(i) excepts “Hazardous waste, liquid or solid n.o.s.” materials classed as Class 9 from the requirement to provide a technical name provided the EPA hazardous waste number is included on the shipping paper in association with the basic description or provided the material is described in accordance with the provisions of § 172.203(c).
- Q4. In accordance with § 172.203(c), the use of the EPA waste code K170 with the DOT proper shipping name or basic description is sufficient as the technical name for a hazardous material such as “RQ, NA3077, Hazardous waste, solid, n.o.s. (K170), 9, PGIII.”
- A4. Yes. Section 172.203(c) allows the waste code to be used to identify the hazardous substance.
- Q5. In accordance with § 172.102, special provision 8, may “NA3077, Other regulated substances, solid, n.o.s.” and “NA3082, Other regulated substances, liquid, n.o.s.” be used as proper shipping names for K170 hazardous waste (or any other RCRA hazardous waste)?
- A5. No, as § 172.102 special provision 8 is assigned to column (7) of the § 172.101 Hazardous Materials Table (HMT) for the entries “UN3077, Environmentally hazardous substance, solid, n.o.s.”, and “UN3082, Environmentally hazardous substance, liquid, n.o.s.” to allow domestic shippers a choice of the alternative descriptions if the material is not a hazardous waste. The entries referenced in Q5 should not be used to describe a hazardous waste, as there are more appropriate descriptions in the HMT—e.g., “NA3082, Hazardous waste, liquid, n.o.s.”, or “NA3077, Hazardous waste, solid, n.o.s.”
- Q6. Should special provision 8 be included in column (7) of the § 172.101 HMT for “NA3077, Other regulated substances, solid, n.o.s.” and “NA3082, Other regulated substances, liquid, n.o.s.?”
- A6. Special provision 8 is assigned to the “UN3077, Environmentally hazardous substance, solid, n.o.s.”, or “UN3082, Environmentally hazardous substance, liquid, n.o.s.” entries to allow domestic shippers to choose the alternative shipping descriptions “Other regulated substances, solid, n.o.s.” and “Other regulated substances, liquid, n.o.s.” if they meet the conditions specified. PHMSA understands that some shippers may not be aware of the special provision 8 instruction because of opting to select the domestic “NA” identification numbers without first reviewing the “UN” identification number descriptions. PHMSA may consider further clarification of the use or assignment of special provision 8 or whether the descriptions “Other regulated substances, n.o.s.” should remain in use in a future rulemaking action.

Questions 7 through 10 concern the use of “UN3077, Environmentally hazardous substance, solid, n.o.s.”, or “UN3082, Environmentally hazardous substance, liquid, n.o.s.” entries.

Q7. Special provision 146 includes the phrase “...does not meet the definition for a hazardous waste or a hazardous substance...”. If the K170 hazardous waste is at the same time a hazardous waste and a hazardous substance can “UN3077, Environmentally hazardous substance, solid, n.o.s.”, or “UN3082, Environmentally hazardous substance, liquid, n.o.s.”, be used to describe K170 hazardous waste solid or liquid?

A7. Yes. Special provision 146 permits the use of the environmentally hazardous substance proper shipping names for a material that poses a hazard to the environment but does not meet: (1) the definition for a hazardous waste or a hazardous substance (See § 171.8) of this subchapter, or (2) any hazard class, (See part 173) if the material is designated as environmentally hazardous by another Competent Authority. This provision may be used for both domestic and international shipments.

As what constitutes an environmentally hazardous substance may vary in different countries, the intention of SP 146 is to address materials which do not meet the HMR definitions of hazardous waste, hazardous substance or a hazard class but have been deemed environmentally hazardous by a Competent Authority other than the United States. Specifically, SP 146 permits these materials to use the environmentally hazardous substance proper shipping names both domestically and internationally.

Q8. Does the word “waste” have to be included as part of these DOT proper shipping names? If so, should it precede the proper shipping name in the basic description, such as “RQ, UN3082, Waste environmentally hazardous substance, liquid, n.o.s. (K170), 9, PGIII”? Can the word “waste” be used anywhere else in the basic description?

A8. Section 172.101(c)(9) of the HMR requires shippers to place the word “waste” in front of the proper shipping name if the material is a waste as defined in § 171.8, and the description of the material does not already include the word “waste.” The HMR do not permit the use of the word “waste” preceding a proper shipping name if the material does not meet the definition in § 171.8 for a hazardous waste. The requirement in § 172.101(c)(9) is that the word “waste” precede the proper shipping name of the material. No other location for the word “waste” is authorized.

Q9. Is “K170” sufficient as the technical name for the hazardous material to include with the DOT proper shipping name or basic description, in accordance with 49 CFR § 172.203(k), such as “RQ, UN3077, Waste environmentally hazardous substance, solid, n.o.s. (K170), 9, PGIII?”

A9. Yes. See answer A3.

- Q10. Is “K170” sufficient as the technical name for the hazardous substance to include with the DOT proper shipping name or basic description, in accordance with 49 CFR §172.203(c), such as “RQ, UN3077, Waste environmentally hazardous substance, solid, n.o.s. (K170), 9, PGIII?”
- A10. Yes. Section 172.203(c) allows the waste code to be used to identify the hazardous substance.
- Q11. If “UN3077, Environmentally hazardous substance, solid, n.o.s.”, “UN3082, Environmentally hazardous substance, liquid, n.o.s.”, “NA3077, Hazardous waste, solid, n.o.s.”, or “NA3082, Hazardous waste, liquid, n.o.s.” can be used as proper shipping names for K170 hazardous waste (solid or liquid), are the “NA3077, Hazardous waste, solid, n.o.s.” or “NA3082, Hazardous waste, liquid, n.o.s.” proper shipping names considered more accurate for describing K170 hazardous waste?
- A11. For domestic transportation an offeror may use either the UN3077/UN3082 or NA3077/NA3082 HMT entries to ship hazardous waste that does not meet the definition of any other hazard class.
- Q12. Would the answer in Q11 change if the hazardous waste was being shipped internationally instead of domestically?
- A12. For international transportation the UN3077/UN3082 entries should be utilized.
- Q13. With regards to ongoing efforts for harmonization with other dangerous goods transportation regulations, would it be beneficial to consider “UN3077, Environmentally hazardous substance, solid, n.o.s.”, or “UN3082, Environmentally hazardous substance, liquid, n.o.s.” rather than “NA3077, Hazardous waste, solid, n.o.s.” or “NA3082, Hazardous waste, liquid, n.o.s.” as proper shipping names for K170 hazardous waste?
- A13. As mentioned in answer A11 above, for domestic transportation it is up to the offeror to determine which proper shipping name to utilize.

You present a second scenario consisting of a mixture of K170 hazardous waste liquid and other chemicals. You present an example where benzene is present at levels that would assign it to waste code D018, but not in sufficient concentration to make the hazardous waste flammable. In this situation, the hazardous waste would have the waste codes D018 and K170, which you state would, for most states, be included on a hazardous waste manifest. According to the scenario you present the hazardous waste is a DOT hazardous material, and for purposes of this example, is also a hazardous substance due to K170 and benzene/D018. It is unclear from the scenario that your material does not meet any of the hazard classification criteria for classes 1-8, but for the purposes of these responses it is assumed to be as such.

Q14. Should “D018” or “benzene” be selected as the technical name with the DOT proper shipping name or basic description, such as “RQ, NA3082, Hazardous waste, liquid, n.o.s., (K170, D018), 9, PGIII” or “RQ, NA3082, Hazardous waste, liquid, n.o.s., (K170, benzene), 9, PGIII”?


A14. The use of either description you provide is appropriate and authorized by §172.203(c) and (k)(2)(i).

Q15. If benzene, rather than D018, is included as a technical name with the DOT proper shipping name or basic description (and the mixture is not flammable), would this preclude the use of “NA3082, Hazardous waste, liquid, n.o.s.”, requiring instead a DOT hazard class 3 proper shipping name such as “UN1144, Waste benzene (K170)” or “UN1993, Waste flammable liquids, n.o.s. (benzene, K1700”, (as examples), since benzene is a specifically listed hazardous material in 49 CFR §172.101?

A15. The inclusion of the word “benzene” as a technical name for “NA3082, Hazardous waste, liquid, n.o.s.” would not automatically indicate the need for a Class 3 flammable liquid proper shipping name since “benzene” is a proper shipping name listed in § 172.101. Only hazardous materials meeting the definition of a flammable liquid are required to be classified as such and may be described and offered as Class 3 materials.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



Dirk Der Kinderen  
Chief, Standards Development  
Standards and Rulemaking Division