



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

FEB 11 2019

Corporal Casey Jones
Texas Department of Public Safety
Texas Highway Patrol – Commercial Vehicle Enforcement
600 W. Kilpatrick
Cleburne, TX 76033

Reference No. 18-0111

Dear Corporal Jones:

This letter is in response to your July 20, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to package markings. Specifically, you describe a scenario in which a company transports a chemical mixture that contains ethylene glycol in a concentration that is less than the reportable quantity (RQ) for a hazardous substance classification. You further state that the mixture's packaging is marked with a UN ID number and the proper shipping name "NA3082, Other regulated substances, liquid, n.o.s."


We have paraphrased and answered your questions as follows:

- Q1. You ask whether it is permissible to mark a package with an ID number and the proper shipping name of a hazardous material when it contains a material that, because of the concentration when shipped, does not meet the definition of a hazardous substance or hazardous material. See 49 CFR § 171.8.
- A1. The answer is no, except as provided in § 172.303(b). Unless the product being shipped meets another hazard class or any other defining criteria of a hazardous material, a mixture or solution containing a hazardous substance below the RQ is not a hazardous material and should not be represented as such. See 49 CFR § 171.2(k).
- Q2. You ask whether the scenario in Q1 would be permissible if the marking includes a disclaimer statement, such as "Not regulated for transportation in containers less than RQ amount."

A2. The answer is no. The HMR do not contain provisions allowing for disclaimer language on packagings, and including such language may cause confusion and frustration of the shipment. Therefore, a packaging that incorrectly displays markings or labels that indicate that it contains a hazardous material is in violation of § 171.2(k).

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a large initial "D" and "K".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Casey
Labeling
18-011

January, Ikeya CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Monday, July 30, 2018 10:49 AM
To: Hazmat Interps
Subject: FW: Letter of Interpretation Request
Attachments: Interp Letter.pdf; Company Label.pdf

Good Morning,

Attached is a request for a letter of interpretation. Please let me know if you have any questions.

Thank you,
Jodi

From: Jones, Casey [mailto:Casey.Jones@dps.texas.gov]
Sent: Friday, July 20, 2018 6:29 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Letter of Interpretation Request
Please forward attached request to PHMSA Hazardous Materials Standards and Rulemaking.

Corporal Casey Jones
Commercial Vehicle Enforcement
Texas Highway Patrol Division

TEXAS DEPARTMENT OF PUBLIC SAFETY

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July 20, 2018

Hazardous Materials Standards and Rulemaking
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Letter of Interpretation for 49 CFR §172.303 Prohibited Marking

Dear Sir or Madam,

I am requesting a formal letter of interpretation for the following scenario:

A company has a blending facility in the U.S. and blends its own product. The product contains the hazardous substance "Ethylene Glycol". The company has determined the product does not meet the criteria to be regulated as a hazardous material for transportation until it meets or exceeds the reportable quantity (RQ) listed in Table 1 to Appendix A for the Ethylene Glycol which is 5,000 lbs. The company has determined that amount equals 2,796 gals of their product. When the RQ threshold is met, they classify it as "NA3082, Other Regulated Substances, Liquid, n.o.s. (contains ethylene glycol), 9, PG III, RQ". They are shipping the product domestically by truck using 350 gal Intermediate Bulk Containers (IBC) which are under the RQ threshold. They place their company printed label (see attached example) on the IBC which has the identification number "NA3082" on the upper left of it and the complete proper shipping name on the lower right of it. Under the proper shipping name they state "*(RQ is only applicable when shipped in containers > RQ under DOT, RQ = 2,796 gallons (Ethylene glycol)) Not regulated for transportation by DOT if shipped in containers < RQ amount.*" They also use a shipping paper which only refers to the material using the company's product name and states "*Not regulated for transport by DOT, TDG, IMDG, ICAO/IATA*".

1. Is it permissible to mark a package with an identification number and proper shipping name of a hazardous material when it is full of a product that does not meet the criteria to be a hazardous material because the quantity has not reached the RQ threshold to make it a hazardous material?
2. If it is not permissible, would including the disclaimer or statement "*Not regulated for transportation by DOT if shipped in containers < RQ amount*" make it permissible?

Respectfully Submitted,

Cpl. Casey Jones
Texas Dept. of Public Safety
Texas Highway Patrol- Commercial Vehicle Enforcement
600 W. Kilpatrick
Cleburne, TX 76033
(817) 202-2450

Product ABC-123

Company

NA3082

DANGER
DANGER
PELIGRO

Emergency telephone (888) 555-5555



HMIS classification
Health 3
Flammability 1
Physical hazard 0
PPE X

Contents:
Ethylene Glycol
Fatty acids, tall-oil, reaction products with diethylenetriamine
2-butoxyethanol
2-Hydroxyethyliminobis(methylene phosphonic acid)
Potassium hydroxide

Product ID:142179

Revision Date: 17/Aug/2017

NET WT:

COUNTRY OF ORIGIN: USA

DATE OF MANUFACTURE:

LOT NO:

ITEM NO: 102899350

PACKAGE SIZE:

NA3082 Other regulated substances, liquid, n.o.s. (contains ethylene glycol), 9 PG III, RQ. (RQ is only applicable when shipped in containers > RQ under DOT, RQ =2,796 gallons (Ethylene glycol))
Not regulated for transportation by DOT if shipped in containers < RQ amount.
Not regulated under TDG, IMDG, ICAO/IATA.

Hazard statements:H302 - Harmful if swallowed H314 - Causes severe skin burns and eye damage H317 - May cause an allergic skin reaction H373 - May cause damage to organs through prolonged or repeated exposure

Precautionary statements:P260 - Do not breathe dust/fume/gas/mist/vapors/spray P264 - Wash face, hands and any exposed skin thoroughly after handling P270 - Do not eat, drink or smoke when using this product P280 - Wear protective gloves and eye/face protection P301 + P330 + P331 - IF SWALLOWED: Rinse mouth. Do NOT induce vomiting P303 + P361 + P353 - IF ON SKIN (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower P304 + P340 - IF INHALED: Remove victim to fresh air and keep at rest in a position comfortable for breathing P305 + P351 + P338 - IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing P310 - Immediately call a POISON CENTER or doctor/physician P272 - Contaminated work clothing should not be allowed out of the workplace P362 + P364 - Take off contaminated clothing and wash it before reuse P333 + P313 - If skin irritation or rash occurs: Get medical advice/attention P403 + P233 - Store in a well-ventilated place. Keep container tightly closed P501 - Dispose of contents/container in accordance with local regulations.

Unknown acute toxicity:17% of the mixture consists of ingredient(s) of unknown toxicity

Mentions de danger:H302 - Nocif en cas d'ingestion H314 - Provoque des brûlures de la peau et des lésions oculaires graves H317 - Peut provoquer une allergie cutanée H373 - Risque présumé d'effets graves pour les organes à la suite d'expositions répétées ou d'une exposition prolongée

Conseils de prudence:P260 - Ne pas respirer les poussières/fumées/gaz/brouillards/vapeurs/aérosols P264 - Se laver le visage, les mains et toute surface de peau exposée soigneusement après manipulation P270 - Ne pas manger, boire ou fumer en manipulant ce produit P280 - Porter des gants de protection et un équipement de protection des yeux/du visage P301 + P330 + P331 - EN CAS D'INGESTION: rincer la bouche. NE PAS faire vomir P303 + P361 + P353 - EN CAS DE CONTACT AVEC LA PEAU (ou les cheveux): enlever immédiatement les vêtements contaminés. Rincer la peau à l'eau/se doucher P304 + P340 - EN CAS D'INHALATION: transporter la victime à l'extérieur et la maintenir au repos dans une position où elle peut confortablement respirer P305 + P351 + P338 - EN CAS DE CONTACT AVEC LES YEUX: rincer avec précaution à l'eau pendant plusieurs minutes. Enlever les lentilles de contact si la victime en porte et si elles peuvent être facilement enlevées. Continuer à rincer P310 - Appeler immédiatement un CENTRE ANTIPOISON ou un médecin P272 - Les vêtements de travail contaminés ne devraient pas sortir du lieu de travail P362 + P364 - Enlever les vêtements contaminés et les laver avant réutilisation P333 + P313 - En cas d'irritation ou d'éruption cutanée: consulter un médecin P403 + P233 - Stocker dans un endroit bien ventilé: Maintenir le récipient fermé de manière étanche P501 - Éliminer le contenu/récipient conformément à la réglementation locale

Toxicité aiguë inconnue:17% du mélange consiste en composant (s) de toxicité inconnue

Indicaciones de peligro:H302 - Nocivo en caso de ingestión H314 - Provoca quemaduras graves en la piel y lesiones oculares graves H317 - Puede provocar una reacción alérgica en la piel H373 - Puede provocar daños en los órganos tras exposiciones prolongadas o repetidas

Consejos de prudencia:P260 - No respirar el polvo/el humo/el gas/la niebla/los vapores/el aerosol P264 - Lavarse concienzudamente la cara, las manos y las áreas de la piel expuestas tras su manipulación P270 - No comer, beber ni fumar durante su utilización P280 - Llevar guantes/gafas/máscara de protección P301 + P330 + P331 - EN CASO DE INGESTIÓN: Enjuagarse la boca. NO provocar el vómito P303 + P361 + P353 - EN CASO DE CONTACTO CON LA PIEL (o el pelo): Quitarse inmediatamente las prendas contaminadas. Aclararse la piel con agua o ducharse P304 + P340 - EN CASO DE INHALACIÓN: Transportar a la víctima al exterior y mantenerla en reposo en una posición confortable para respirar P305 + P351 + P338 - EN CASO DE CONTACTO CON LOS OJOS: Aclarar cuidadosamente con agua durante varios minutos. Quitar las lentes de contacto, si lleva y resulta fácil. Seguir aclarando P310 - Llamar inmediatamente a un CENTRO DE INFORMACION TOXICOLOGICA o a un médico P272 - Las prendas de trabajo contaminadas no podrán sacarse del lugar de trabajo P362 + P364 - Quitar las prendas contaminadas y lavarlas antes de volver a usarlas P333 + P313 - En caso de irritación o erupción cutánea: Consultar a un médico P403 + P233 - Almacenar en un lugar bien ventilado. Mantener el recipiente cerrado herméticamente P501 - Eliminar el contenido/el recipiente de acuerdo con las normas locales

Toxicidad aguda desconocida:17% De la mezcla se compone de ingrediente (s) de toxicidad desconocida