



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 12 2018

Levi Howell
Regulatory Affairs Specialist
ICL-IP America, Inc.
11636 Huntington Road
Gallipolis Ferry, WV 25515

Reference No. 18-0077

Dear Mr. Howell:

This letter is in response to your May 17, 2018, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to marine pollutants. You describe two products classified as “UN3077, Environmentally hazardous substance, solid, n.o.s., 9, III, Marine Pollutant” and “UN3082, Environmentally hazardous substance, liquid, n.o.s., 9, III, Marine Pollutant,” respectively. You state these products do not meet any other hazard class and ask if they are subject to the HMR when shipped in non-bulk or bulk packages by motor vehicle, rail car, or aircraft.

In accordance with § 171.4, non-bulk packages of marine pollutants are not subject to the HMR when transported via highway, rail, or aircraft. However, the HMR regulate bulk packages of a marine pollutant transported in commerce as a hazardous material. For domestic transportation by all modes, a marine pollutant in a bulk quantity that meets the hazard class definition for a Class 9 material (see § 173.140) must be accompanied by a shipping paper and packaged, marked, and labeled in compliance with the HMR, but it is not required to be placarded (see § 172.504(f)(9)). However, a bulk packaging must be marked with the appropriate identification number on a CLASS 9 placard, an orange panel, or a white square-on-point display configuration as required by subpart D of part 172. Additionally, a marine pollutant meeting the definition of any other hazard class must comply with the applicable requirements in the HMR for shipping papers, packaging, marking, labeling, and placarding for each hazard class, as appropriate.

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Handwritten notes:
Address
Maurice Kallitencat
18-0072

January, Ikeya CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, May 17, 2018 5:16 PM
To: Hazmat Interps
Subject: FW: Request for Letter of Interpretation
Attachments: DOT Request for Interpretation_ICL_05-17-2018.pdf

Importance: High

Hi Ikeya,

Below is a request for a letter of interpretation. Mr. Howell spoke with Eugenio regarding his request. Please let me know if you have any questions.

Thanks,
Jodi

From: Howell, Kenneth L [mailto:Kenneth.Howell@icl-group.com]
Sent: Thursday, May 17, 2018 2:10 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Request for Letter of Interpretation
Importance: High

Good Afternoon,

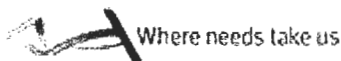
Attached you will find our request for a Formal Letter of Interpretation from the agency. Once the agency has completed their review, please mail the approved response to the following:

ICL-IP America, Inc.
11636 Huntington Road
Gallipolis Ferry, WV 25515

If there are any questions or requests for additional information, please do not hesitate to contact me via phone at (304) 675-1150 ext. 483 or email at kenneth.howell@icl-group.com. Thank you and have a good day.

Best Regards,

Levi Howell
Regulatory Affairs Specialist
11636 Huntington Road
Gallipolis Ferry, WV 25515
Tel: 304-675-1150 ext. 483
Cell: 304-389-3811
Email: kenneth.howell@icl-group.com



Levi Howell
Regulatory Affairs Specialist

May 17, 2018

U.S. Department of Transportation (DOT)
PHMSA Office of Hazardous Materials Standards (PHH-10)
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

RE: REQUEST FOR LETTER OF INTERPRETATION

Dear Sir or Madam:

We are contacting the agency with this formal request for a letter of interpretation regarding the regulations for Class 9 Miscellaneous Hazardous Materials and Marine Pollutants, and how they apply under the exemption prescribed in 49 CFR 171.4(c)(1).

In the two scenarios described below, 2 products are classified as:

Product 1:

UN3077, Environmentally hazardous substance, solid, n.o.s (*technical name*), 9, III, Marine Pollutant

Product 2:

UN3082, Environmentally hazardous substance, liquid, n.o.s (*technical name*), 9, III Marine Pollutant

Product 1 and Product 2 are assigned class 9 solely due to their being Marine Pollutants.

Applying 49 CFR 171.4(c)(1):

Except when all or part of the transportation is by vessel, the requirements of this subchapter specific to marine pollutants do not apply for non-bulk packagings transported by motor vehicle, rail car, or aircraft.

Question 1: Since our classifications of Product 1 and Product 2 are based only upon their classification being Marine Pollutants in accordance with 49 CFR 172.101 Appendix B, if Product 1 and Product 2 are transported by motor vehicle, rail car, or aircraft in non-bulk packagings, would the exception (49 CFR 171.4(c)(1)) exclude these materials from all requirements of Subchapter C including assignment to class 9, marking, labeling, placarding and hazardous material shipping papers as prescribed in that subchapter? If not regulated, are Product 1 and Product 2 considered non-hazardous, thus exempted from the HMR, when shipped in non-bulk packagings via motor vehicle, rail car, or aircraft?

Levi Howell
Regulatory Affairs Specialist

Question 2: If under a different scenario these were in bulk containers they would be fully regulated as class 9 requiring marking, labeling, placarding and hazardous material shipping papers as required in the subchapter?

If you have any questions or need additional information, please feel free to contact me by phone (Office: (304) 675-1150 ext. 483 or Cell: (304) 389-3811) or via email kenneth.howell@icl-group.com.

Sincerely,



Levi Howell
Regulatory Affairs Specialist