



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

SEP 03 2019

Andrea Florin
Regulatory Affairs Specialist
ResinLab
N109 W13300 Ellsworth Drive
Germantown, WI 53022

Reference No. 19-0071

Dear Ms. Florin:

This letter is in response to your June 4, 2019, letter and subsequent phone conversations requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to marine pollutants. You state that your company currently classifies the liquid Epoxy Resin as “UN3082, Environmentally hazardous substances, liquid, n.o.s., Class 9, PG III.” You also state that the Globally Harmonized System identifies this material as “aquatic chronic 2,” toxic to aquatic life with long lasting effects. You note that there is inconsistency in the industry as to whether the material is classified as “UN3082” based on its identification as a marine pollutant.

Specifically, you ask whether it is permissible to transport mixtures containing Epoxy Resin (CAS 25068-38-6: Bisphenol-A-(epichlorohydrin) epoxy resin) as a non-regulated material for domestic purposes because it does not appear in the HMR under Appendix B to § 172.101 – List of Marine Pollutants.

The answer to your question is yes. The material is not listed under the List of Marine Pollutants in Appendix B to § 172.101 of the HMR, and therefore is not regulated as a marine pollutant for domestic transportation. Note 4 of Appendix B states: If a material is not listed in this appendix and meets the criteria for a marine pollutant as provided in Chapter 2.9 of the International Maritime Dangerous Goods Code (IMDG Code), the material may be transported as a marine pollutant in accordance with the applicable requirements of this subchapter. The category identified as “aquatic chronic 2” is one of the criteria shown in Chapter 2.9 of the IMDG Code that leads to the classification as a marine pollutant. Therefore, the material may be classified as such for domestic transportation according to the HMR. This classification is a permissive one, but is not required for domestic transportation.

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

Larson

19-0071

Dodd, Alice (PHMSA)

From: Kelley, Shane (PHMSA)
Sent: Wednesday, June 05, 2019 5:10 PM
To: Hazmat Interps
Subject: FW: Request for interpretation of regulations
Attachments: Request for Interpretation 06052019.pdf

Please log for response and thank you

From: Patterson, Tyler (PHMSA)
Sent: Wednesday, June 5, 2019 4:39 PM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Cc: Robbs, Jenaya CTR (PHMSA) <jenaya.robbs.ctr@dot.gov>
Subject: Fwd: Request for interpretation of regulations

Shane,

I received an interp request and am forwarding to you for follow-up.

Tyler Patterson
Director, Central Region
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Safety
901 Locust St
Suite 480
Kansas City, MO 64106
(816) 329-3815 (Phone)
tyler.patterson@dot.gov

From: Andrea Florin <aflorin@Ellsworth.com>
Sent: Wednesday, June 5, 2019 2:52:32 PM
To: Pickett, Angela (PHMSA)
Cc: Patterson, Tyler (PHMSA)
Subject: RE: Request for interpretation of regulations

Hello,

Thank you Angela, I attached the formal letter I drafted with the details of the specific situation we are asking about.

Mr. Patterson, please accept this letter as a formal request for an interpretation of the hazardous shipping regulations. I did also get a note back from Jenaya Robbs but our management really wants this in writing.

Thanks again,
Andrea Florin

Regulatory Affairs Specialist

ResinLab

Tel/Fax: +1 (262) 478-8700



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From: Pickett, Angela (PHMSA) <Angela.Pickett@dot.gov>

Sent: Wednesday, June 5, 2019 2:40 PM

To: Andrea Florin <aflorin@Ellsworth.com>

Cc: Pickett, Angela (PHMSA) <Angela.Pickett@dot.gov>

Subject: RE: Request for interpretation of regulations

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Hi Andrea,

I have forwarded your concern to the HAZMAT department for response. Mr. Tyler Patterson is the Director and his contact information is: tyler.patterson@dot.gov, (816) 329-3815. I hope this helps.

Sincerely,

Angela Pickett
Central Region-Community Liaison
US DOT – PHMSA
816 329-3823



Know what's below.
Call before you dig.

From: Andrea Florin [<mailto:aflorin@Ellsworth.com>]

Sent: Wednesday, June 05, 2019 2:14 PM

To: Pickett, Angela (PHMSA) <Angela.Pickett@dot.gov>

Subject: Request for interpretation of regulations

Importance: High

Hello Angela,
Thank you for returning my call today. Sorry I missed you.

In reviewing the regulations for shipping hazardous materials specifically Marine Pollutants I was not able to locate specific guidance on how to ship a material when the CAS number does not appear in the 49 CFR 172.101 Appendix B and the substance does not fall under any other hazard classes but is classified as toxic to aquatic life per GHS rules. I did some investigation on the internet and discovered that there are differences in how this material is classified for domestic transport in the marketplace which lead me to wanting a formal letter of interpretation on the subject. How do I proceed with this type of request?

Thank you for your time.

Andrea Florin

Regulatory Affairs Specialist

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June 4, 2019

Pipeline and Hazardous Materials Safety Administration
Central Region Office
U.S. Department of Transportation
901 Locust Street, Suite 480
Kansas City, MO 64106

ATTN: Mr. Tyler Patterson

I am writing on behalf of ResinLab, LLC to request a formal letter of interpretation. We are an adhesives manufacturer located in Germantown, Wisconsin. We ship out various types of adhesives in packages as small as a cartridge up to as large as a tote. The interpretation relates to shipping liquid epoxy resin.

We are currently shipping liquid Epoxy Resin (CAS # 25068-38-6) as UN3082 Class 9 marine pollutant domestically as a regulated shipment in packages greater than 5L. This material is classified by GHS as a skin and eye irritant and environmentally hazardous, toxic to aquatic life/chronic.

We purchase this material in bulk tanker and in drums. There is inconsistency in the marketplace for the shipment of this material; some manufacturers ship regulated as UN3082, others do not. Researching and reviewing published Safety Data Sheets and finding differences in how other suppliers and formulators are classifying this material for shipment led me to wanting a definitive answer.

We investigated, and Epoxy resin is not listed in 49 CF 172.101 Appendix B which means the DOT does not classify it as a marine pollutant. Is it acceptable to ship mixtures containing Epoxy resin (CAS 25068-38-6) as non-regulated domestically by DOT because Epoxy resin does not appear under 49 CF 172.101 Appendix B?

Sincerely,

Andrea Florin
Regulatory Affairs Specialist
ResinLab
aflorin@ellsworth.com
262-478-8700