



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 6, 2021

Cyndi Fink
Distribution Safety Manager
LANXESS Corporation
111 RIDC Park West Drive
Pittsburgh, PA 15275

Reference No. 20-0084

Dear Ms. Fink:

This letter is in response to your October 29, 2020, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to classifying organic acid chlorides. Specifically, you seek clarification of the classification criteria for dangerous when wet (Division 4.3) materials as specified in §§ 173.124(c) and 173.125(d) of the HMR.

In your letter, you state that your company contracted with a laboratory to conduct testing in accordance with the United Nations (UN) Test N.5 of the UN Manual of Tests and Criteria and § 173.124(c) of the HMR to determine whether some organic acid chlorides should be classed as a Division 4.3 material. You state that while the UN Test for Division 4.3 materials requires testing for the emission of flammable gases, § 173.124(c) of the HMR indicates that both flammable or toxic gases must be considered for classifying a substance as a Division 4.3 material. Additionally, in your letter you state that samples of your material did not emit any flammable gases during testing; however, they did emit hydrogen chloride, a toxic gas. You ask for PHMSA to clarify its position for requiring a material to be classed as a Division 4.3 if it emits a toxic gas during testing, or if this requirement should be harmonized with international test methods and only be considered a Division 4.3 material if flammable gasses are emitted during testing.

PHMSA acknowledges that there is a difference between the international regulations and the HMR pertaining to the criteria for the classification of a Division 4.3 material. The international regulations do not mention the emission of toxic gases as criteria in assigning a material to Division 4.3, while the emission of toxic or flammable gas would be the criteria to assign a material to Division 4.3 in accordance with the HMR. It is the opinion of this Office that water-reactive materials that produce toxic gases still present a hazard that should be addressed in the

HMR, and that until this issue is addressed, you may use the same criteria for Packing Group (PG) assignment currently specified in § 173.125(d) for measuring the emission of flammable gasses as for measuring the emission of toxic gasses.

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

Sincerely,

A handwritten signature in blue ink, reading "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

From: [INFOCNTR \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hazmat Interps](#)
Subject: FW: Request for letter of interpretation
Date: Friday, October 30, 2020 12:49:52 PM
Attachments: [2020-10-27 Class 4.3 Toxic Gas LOI request.pdf](#)

Hi Alice,

Please see attached for a letter of interpretation request.

Please contact our office with any questions.

Thank you,

Sarah (HMIC)

From: cyndi.fink@lanxess.com [mailto:cyndi.fink@lanxess.com]
Sent: Thursday, October 29, 2020 12:10 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Cc: Ernest Marcel <ernest.marcel@lanxess.com>; sebastian.buchner@lanxess.com
Subject: Request for letter of interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Please see attached request for a letter of interpretation regarding 49CFR173.124(c).

Thank you.

Cyndi Fink, CDGP, DGSA
Distribution Safety Manager
Product Safety & Regulatory Affairs
LANXESS Corporation
111 RIDC Park West Drive | Pittsburgh, PA 15275-1112
Cell: 412-337-2350 | Office: 412-809-4774 | cyndi.fink@lanxess.com