



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

DEC 10 2002

Mr. Ronald J. Stokes
ExxonMobil Chemical Company
P.O. Box 3140
Edison, NJ 08818

RefNo. 02-0258

Dear Mr. Stokes:

This is in response to your September 17, 2002 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the shipping description of a non-hazardous material. Specifically, you state your company ships an item identified as a spent catalyst on a standard bill of lading to a separate facility for regeneration and return to your company for continued use. You reference the U.S. Environmental Protection Agency's (EPA) determination in 40 CFR 261.1(c)(1) & (4) that a spent catalyst is a solid waste, but not a hazardous waste mandating the use of a manifest. In a subsequent telephone conversation with a member of my staff, you stated that the spent catalyst does not meet any of the hazard classes or divisions under the HMR. Your subsequent questions are paraphrased and addressed as follows:

Q1. In light of EPA and HMR requirements, can a spent catalyst be described as a waste on a standard shipping document without violating the HMR?

A1. No. Use of the word "waste" preceding a proper shipping name is reserved for a hazardous waste. Materials that are excepted from the hazardous waste manifest requirements of the U.S. EPA are not "hazardous wastes" as defined in § 171.8 of the HMR. Using the word "waste" to describe a non-hazardous material may confuse a carrier or enforcement official, incorrectly communicate a hazard warning and could consequently frustrate the shipment. As provided in Section 172.101(c)(9), if the word "waste" is not included in the hazardous material description in Column 2 of the Table, the proper shipping name for a hazardous waste shall include the word "waste" preceding the proper shipping name of the material. Materials that are excepted from the hazardous waste manifest requirements of the U.S. EPA are not "hazardous wastes" as defined in § 171.8 of the HMR. Under your scenario, the shipping paper could show an entry such as "Non-HMR regulated waste catalyst" or "Waste catalyst, non-regulated."

Q2. Is the word "waste" when used in the transport/transportation arena confined to its specified use as noted in the HMR?

A2. The word "waste" when used with a proper shipping description under the HMR indicates material that is a federally regulated waste. There could be instances in transportation when the



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word "waste" is used that do not specifically apply to the regulation of hazardous materials. Please refer to our response to Q1.

- Q3. If use of the word "waste" is acceptable on a non-manifest shipping document must the transporter (carrier) of such material be a licensed waste hauler?
- A3. Inquiries concerning the compliance regulations of carriers should be addressed to the Federal Motor Carrier Safety Administration (FMCSA) or EPA for "registered" waste transporter. As provided in § 177.804, motor carriers and other persons subject to this part shall comply with 49 CFR parts 390 through 397 (excluding §§ 397.3 and 397.9) to the extent those regulations apply.

I hope this information is helpful. If we can be of further assistance, do not hesitate to contact us.

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards

ExxonMobil Chemical Company
Intermediates, Synthetics Product Stewardship
P.O. Box 3140
Edison, New Jersey 08818
732 321 6033 Telephone
732 321 6057 Facsimile

Foster
§171.2(f)
§172.101(c)(9)

September 17, 2002

ExxonMobil Definition
Chemical
02-0258

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 7th Street, S.W.
Washington, DC 20590-0001

Ref: §171.2(f)
§172.101(c)(9)

Dear Mr. Mazzullo:

Pursuant to the referenced requirements, we are looking for guidance concerning the shipping description of a non-hazardous material. We ship a material that is a spent catalyst to a facility where it will be regenerated and returned for our continued use. We ship this material on a normal bill-of-lading not a waste manifest.

Pursuant to the US EPA's determination in 40 CFR (Paragraph 261.1(c)(1) & (4)) spent catalyst is a solid waste (but not a hazardous waste mandating the use of a manifest).

In light of the EPA rules and in consideration of the HMR requirements, [1] No person shall represent that HM is in a package, if the HM is not present (171.2(f)), and [2] the word "waste" is an operative and/or descriptive term under to HMR for shipping hazardous waste (172.101(c)(9), can we describe the spent catalyst as a waste on a non-manifest shipping document without violating the HMR?

Other specific questions (Q) concerning this matter are:

- Q. Is the word "waste" when used in the transport / transportation arena confined to it's specified use as noted in the HMR?
- Q. If use of the word "waste" is acceptable on a non-manifest shipping document must the transporter (carrier) of such material be a licensed waste hauler?

Should there be any questions concerning this request, I may be contacted at the above address or telephone numbers shown below.

Thanks for your help in this matter.

Sincerely,



Ronald J. Stokes
Tel (732) 321-6046
Fax (732) 321-6057
Email: ron.j.stokes@exxonmobil.com