



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

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

SEP 22 2003

Mr. Gene Sanders
Fisher Scientific LLC
2000 Park Lane
Pittsburgh, PA 15275

Ref. No. 03-0194

Dear Mr. Sanders:

This is in response to your letter dated July 31, 2003, concerning the reclassification of a material as "Consumer commodity, ORM-D" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked if a material properly described as "Consumer commodity, ORM-D" is subject to special provision 47 (see § 172.102).

The answer is no. A material that has been appropriately reclassified as "Consumer commodity, ORM-D" as authorized in column (8A) of the HMT is no longer subject to special provision 47, which applies to the original shipping description.

I hope this satisfies your request.

Sincerely,

John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



030194

172.101

INFOCNTR

From: Sanders, Gene [gene.sanders@fishersci.com]
Sent: Thursday, July 31, 2003 3:41 PM
To: INFOCNTR
Cc: Mayfield, John; Jones, Robin; DuMars, Lisa
Subject: RE: Interpretation requested

BAH
8172.101
Proper Shipping
Name
03-0194

As recommended in your informal response attached below, and in accordance with 49CFR 105.20(a)(2), and in accordance with <http://hazmat.dot.gov/infocent.htm>, I am requesting a FORMAL response to my question. Thank you.

Cheers,

Gene Sanders, DGSA
Dangerous Goods Transportation Specialist
Fisher Scientific LLC
2000 Park Lane
Pittsburgh, Pa. 15275 USA
Gene.Sanders@Fishersci.com
412/490-8934, cell 412/498-2458, fax 412/490-8930
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-----Original Message-----

From: INFOCNTR [mailto:Infocntr@rspa.dot.gov]
Sent: Thursday, July 31, 2003 2:56 PM
To: 'Sanders, Gene'
Subject: RE: Interpretation requested

Dear Gene,

We have received your inquiry about the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The HMR are available at the following URL:

<http://hazmat.dot.gov/rules.htm>

Since the material has been reclassified as a Consumer commodity, ORM-D, it is no longer subject to the special provisions listed for the original shipping description. Special provision 47 would not apply to a Solid containing flammable liquid, n.o.s. that has been reclassified as a Consumer commodity, ORM-D.

If you require further assistance, our Hazardous Materials Information Center is staffed with regulatory specialists who can quickly answer your questions by phone. Please do not hesitate to call, as the Information Center is open Monday through Friday, 9 am - 5 pm E.S.T. at (800) 467-4922 or (202) 366-4488.

Sincerely,

Kurt Eichenlaub, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <http://hazmat.dot.gov/infocent.htm>

-----Original Message-----

From: Sanders, Gene [mailto:gene.sanders@fishersci.com]
Sent: Thursday, July 31, 2003 11:29 AM
To: INFOCNTR
Cc: Mayfield, John; Jones, Robin
Subject: Interpretation requested

Edward Mazzullo, Director
Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
DHM-10
400 7th St., S.W.
Washington, DC 20590-0001
infocntr@rspa.dot.gov

Dear Mr. Mazzullo,

Your assistance is requested in clarifying a question about the proper application of the hazardous materials transportation regulations.

The question regards the classification and packaging requirements for a plastic container of alcohol wipes. The liquid is 70% isopropanol, with a flash point of 78F, saturated onto a single roll of fabric perforated to be torn off as individual wipes. There is no free liquid in the plastic container, and the plastic container is to be shipped inside a strong, outer, fibreboard box. The total weight of the saturated wipes is 1 pound, or less than 500 grams. Our classification rationale is as follows:

1. The hazard presented by the product is solely one of flammability.
2. The product is not liquid, per the definition in 49CFR 171.8.
3. The most appropriate Proper Shipping Name, selected per 49CFR 172.101(c)(12)(ii), is Solids containing flammable liquid, n.o.s.
4. This classification requires compliance with Special Provision 47, including the leakproof test requirement.
5. The product qualifies for the Limited Quantity (LTD QTY) exception, because 173.151 is listed in column 8A of the Hazardous Materials Table, and because it meets the requirements there-in.
6. Because the product meets the LTD QTY requirements, and because it meets the definition of Consumer Commodity, it also qualifies for the relief granted in 49CFR 173.151(c).
7. Consumer commodities are "renamed" Consumer Commodity and reclassified as ORM-D.
8. Therefore, we propose to offer this product with ORM-D as the hazard class, and a Proper Shipping Name of "Consumer Commodity".

Our question is whether Special Provision 47 is still applicable?

One argument is that 49CFR 173.151 allowed the renaming and reclassification as Consumer Commodity, ORM-D, and is still the relevant packaging authorization despite the reclassification, which then implies that the original classification and associated Special Provisions still apply. In other words, if the product, as offered for transport, does not comply with Special Provision 47, then we have not complied with the packaging requirements for Solids containing flammable liquid, n.o.s., and 173.151 can not be used to rename as a Consumer Commodity.

An opposing argument is that when the product is renamed and reclassified, only the special provisions listed in the Hazardous Materials Table for the new Proper Shipping Name and hazard class apply. Special Provision 47 is not listed in column 7 of the Hazardous Materials Table in association with the Consumer Commodity, ORM-D listing, and therefore would not apply.

Would we be committing a violation to offer this product as a Consumer Commodity without complying with the leakproof test requirement of Special Provision 47? Thank you.

Cheers,

Gene Sanders, DGSA
Dangerous Goods Transportation Specialist
Fisher Scientific LLC
2000 Park Lane
Pittsburgh, Pa. 15275 USA
Gene.Sanders@Fishersci.com
412/490-8934, cell 412/498-2458, fax 412/490-8930
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