



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP 11 2006

Mr. Marc Feldman
Regulatory Affairs Manager
Solvay Chemicals
3333 Richmond Avenue
Houston, TX 77098-3099

Ref. No. 06-0182

Dear Mr. Feldman:

This is in response to your July 31, 2006 letter regarding a material that meets the definition for a Class 9 material under the European Agreements Concerning the International Carriage of Dangerous Goods by Road (ADR) and Rail Agreements (RID) regulations for transportation of hazardous materials by highway or rail in Europe, but does not meet the definition of any hazard class under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), the International Maritime Dangerous Goods (IMDG) Code, or the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

According to your letter, your company imports a material that does not meet the definition of a hazardous material under the HMR, the IMDG Code or the ICAO Technical Instructions, but is regulated as "Environmentally hazardous substance, solid, n.o.s., 9, UN3077" in accordance with the ADR/RID. Your company does not remove the markings and labels for transportation in the United States and does not wish to describe these materials as hazardous materials on shipping papers.

The ICAO Technical Instructions and the IMDG Code permit materials designated as environmentally hazardous by the Competent Authority of the country of origin, transit or destination, but do not meet the definition of a hazardous substance or hazardous waste or other hazard class to be described as "Environmentally hazardous substances, liquid or solid, n.o.s."

Section 172.401(c) permits labeling in accordance with the ICAO Technical Instructions or the IMDG Code. Although this material does not meet the definition of a hazardous material under the HMR, the package may remain appropriately marked and labeled with the Class 9 label in accordance with the ICAO Technical Instructions or the IMDG Code and transit the United States without shipping papers. A statement such as "Non-DOT Regulated" or "Not subject to DOT regulation" may appear on the product label and shipping documents.



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172.401(c)

You should be aware that because your shipment will not be accompanied by a shipping paper, the marks and labels on your package may cause delays or otherwise frustrate its transportation. To avoid this problem, we suggest the following:

1. Remove, obliterate, or securely cover the markings and labels; or
2. Leave the marking and labeling in place and describe the material as "Environmentally hazardous substances, liquid or solid, n.o.s." in accordance with § 172.102, Special Provision 146.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



SOLVAY
CHEMICALS
 INTEROX, FLUORIDES & MINERALS

Leary
 § 172.401(c)
 § 172.101
 Classification
 06-0182

July 31, 2006

Office of Hazardous Materials Standards,
 Pipeline and Hazardous Materials Safety Administration
 ATTN: PHH-10
 U.S. Department of Transportation
 400 7th Street SW
 Washington, DC 20590

Via electronic mail and surface mail

Dear Sirs:

My company imports a material that does not meet any of the characteristics necessary to be classified as a hazardous material under any of the nine hazardous material (hazmat) classes identified in the U.S. Hazardous Materials Regulations (49 CFR 171-180, "the HMR").

The European classification scheme, however, classes this material as "Dangerous to the Environment" with subsequent marking and labeling as a Class 9, Environmentally Hazardous Substance, Solid, Not Otherwise Specified, (NOS), UN 3077, in the ADR/RID (European Road / Rail. Furthermore the), IMDG Code (Ocean) and ICAO Technical Instructions (and IATA regulations)(Air) permit materials classified as hazardous to the environment under "other transport regulations" to be marked, labeled and transported under this entry (see IMDG Code Special Provision 909 and ICAO/IATA Special Provision A97 assigned to the entry for UN 3077).

In this regard, we note that 49 CFR §172.401 (c) permits transportation of packages displaying hazard labels in compliance with UN Recommendations, IMDG Code, ICAO Technical Instructions (IATA) or TDG Regulations (Canada) when the packages contain materials not categorized as hazardous under the HMR. However, while we do not remove the labels and markings from packages containing these materials, for distribution within the United States we do not wish to ship these material as a hazardous material (for example, we do not wish to describe them as a hazardous material on the shipping paper).



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There have been occasions when our shipping documents for the domestic transportation of such materials have been questioned by various parties because the shipping papers do not describe the material as a hazardous material whereas the packages display a Class 9 label and the identification number UN 3077 and associated proper shipping name. However, we believe the display of these markings and labels on packages containing materials as described herein is permitted by the HMR even when the material is not transported as a hazardous material and described as such on the shipping paper. Your confirmation of this understanding is requested.

Does the response change if the packaging, still showing class 9 labeling and marking of the ID number and proper shipping name and/or the shipping papers, have, "NOT DOT Hazardous" or an indication to that effect, on them?

Should you require any other information, I may be reached at 713-525-6575, weekdays between 7:30 am and 3:30 pm Central time.

Thank you for your interpretation.

Sincerely,

Dr. Marc A. Feldman, CMQ/OE
Regulatory Affairs Manager