



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

December 10, 2009

Mr. Steven Amter
Senior Scientist
Disposal Safety Incorporated
1001 Connecticut Avenue, NW, Suite 525
Washington, DC 20036

Reference No. 08-0063R

Dear Mr. Amter:

This letter clarifies my May 16, 2008 response and is in further reference to your March 7, 2008 letter and your March 14, 26, and April 8, 2008 telephone conversations with a member of my staff concerning a tank car that contains ortho-Toluidine (o-Toluidine). You asked if a warning label or sign may be placed near the tank car's unloading outlet under the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180). You stated the image of the sign or label had not been determined, but would likely take the shape of a circle, square, or rectangle.

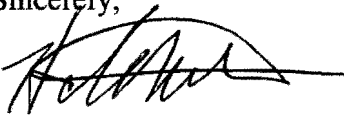
Ortho-toluidine is listed as "UN1708, Toluidines, 6.1, PG II," in the Hazardous Materials Table, § 172.101 in the HMR. The material is also listed as o-Toluidine in Table 1 to Appendix A in § 172.101 and is regulated as a hazardous substance, as defined in § 171.8, when the quantity of o-Toluidine in one package equals or exceeds its reportable quantity (RQ) value of 100 pounds. If the quantity of material being transported in one package meets or exceeds the RQ for o-Toluidine, the letters "RQ" must be included either before or after the basic description on the shipping paper. When transported in a tank car, the tank must be marked on each side and each end with the identification number "1708" in accordance with §§ 172.330(a)(1)(i) and 172.332.

Provided the proposed sign or label by its color, design, shape, or content cannot be confused with and does not conflict with a marking, label or placard prescribed in the HMR, the placement of a label or sign near a tank car's unloading outlet is not prohibited under the DOT regulations. See the requirements in §§ 172.304(a)(4), 172.401(b), and 172.502(a)(2). A sign or label on a tank car must also comply with the tank car marking requirements in Appendix C of the Association of American Railroads Specifications for Tank Cars, which the HMR incorporates by reference in § 171.7. See § 179.22(a). The purpose of this latter requirement is to ensure that all tank car markings, including those required under the HMR, are placed in a location that is consistent with the markings on other tank cars. This consistency makes it easier for railroad and emergency response personnel to identify a tank car in transport.

Although you submitted the proposed text of the label in your inquiry, this Office assessed the content of the label only to determine whether it would conflict with labeling requirements under the HMR. Thus, our May 16, 2008 letter is in no way an endorsement, ratification, or confirmation of the truth of the statements on your label. Moreover, PHMSA does not have the authority or the expertise to determine whether a material is a cancer-causing agent, and no such determination was intended by our letter.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell", with a long horizontal flourish extending to the right.

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

MAY 16 2008

Mr. Steven Amter
Senior Scientist
Disposal Safety Incorporated
1001 Connecticut Avenue, NW, Suite 525
Washington, DC 20036

Reference No. 08-0063

Dear Mr. Amter:

This is in response to your March 7, 2008 letter and your March 14, 26, and April 8, 2008 telephone conversations with a member of my staff concerning a tank car that contains "RQ, UN 2929, Toxic liquids, flammable, organic, n.o.s., 6.1, 3, (o-Toluidine), PG II." You asked if your company may place the following text (bullets added for emphasis) on a warning label or sign near the tank car's unloading outlet under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180):

**ORTHO-TOLUIDINE
DANGER
CAUSES CANCER AND DEATH**

- Ortho-toluidine is extremely dangerous - exposure to ortho-toluidine has been shown to cause bladder cancer.
- Do not breathe any vapor. Breathing any amount of this substance is dangerous.
- Do not get any liquid on your skin. This chemical is readily absorbed by your skin.
- You must wear a supplied-air respirator and a fully-protective, chemical-resistant suit and gloves.

You state the image of the sign or label has not been determined, but your company is considering making it the shape of a circle, square, or rectangle.

Provided the information on the sign or label represents a hazard of the material contained in the package, the answer is yes. See §§ 172.304(a)(4), 172.401(a)(2) and (b), and 172.502(a)(2). The label must also comply with the tank car marking requirements in Appendix C of the Association of American Railroads Specifications for Tank Cars, which the HMR incorporates by reference in § 171.7. See § 179.22(a). The purpose of this requirement is to ensure all tank car markings, including those required under the HMR, are placed in a location that is consistent with the markings on other tank cars. This consistency makes it easier for railroad and emergency response personnel to identify a tank car in transport.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell", with a long horizontal flourish extending to the right.

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

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Placarding
08-0063

March 7, 2008

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Ms. Mitchell:

The industrial chemical ortho-toluidine is recognized by DOT regulations as "Toluidines," Hazard Class 6.1, and the "POISON INHALATION HAZARD" placard is required.

However, such DOT placarding does not inform the reader that ortho-toluidine is also a recognized cancer-causing substance for humans.

Our query is as follows: If a tank car containing ortho-toluidine was labeled with the following information, would such a label conflict with any DOT regulation or standard? Please assume that the format of this label would be clearly distinguishable from the required DOT placard and that it would be placed on the tank car so as not to interfere with or be confused with the placard or any other information required by the DOT.

The text of the proposed label is as follows:

ORTHO-TOLUIDINE
DANGER
CAUSES CANCER AND DEATH

Ortho-toluidine is extremely dangerous - exposure to ortho-toluidine has been shown to cause bladder cancer.

Do not breathe any vapor. Breathing any amount of this substance is dangerous.

Do not get any liquid on your skin. This chemical is readily absorbed by your skin.

You must wear a supplied-air respirator and a fully-protective, chemical-resistant suit and gloves.

Thank you for your help on this matter. If you have any questions or require additional information, please call me at (202) 293-3993.

Sincerely,

Steven Amter
Senior Scientist
Disposal Safety Incorporated
1001 Connecticut Ave. NW, Suite 525
Washington, DC 20036