



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

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

DEC 15 2010

Mr. John C. Anderson
Environment, Safety & Health Manager
McLane Company, Inc.
4747 McLane Parkway
Temple, TX 76503-6115

Ref. No.: 10-0220

Dear Mr. Anderson:

This responds to your September 30, 2010 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you indicate that you transport materials classed as ORM-D in company vehicles by highway. You ask, if aerosol cans, e.g., insecticides, lubricants, and automotive products, that have been dented or have missing spray nozzles or caps may be shipped as a Consumer Commodity, ORM-D in accordance with the provisions of the HMR.

The answer your question is yes. Aerosol cans that have been dented or have missing spray nozzles or caps that still meet the general packaging requirements in part 173, subpart B, may be shipped as a Consumer Commodity ORM-D. However, cans without nozzles are no longer defined as aerosol cans. Section 171.8 defines an aerosol as "any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas." This means that materials shipped in containers without a self-closing release device that would allow the contents to be ejected by a gas, cannot be shipped as aerosols. A more appropriate shipping name may be "Receptacles, small, containing gas (gas cartridges)."

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ben Supko".

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division



September 30, 2010

U.S. DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Winter
\$173,306
\$173,156
ORM-D Consumer Commodity
10-0220

RE: Request for Interpretation

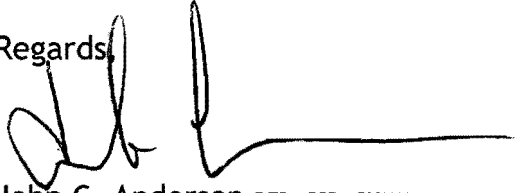
This letter is to request an interpretation on shipping ORM-D Consumer Commodity items to an off-site reclamation center. As part of this submission, I am also providing additional details about McLane's shipping process.

- McLane customers are retail outlets such as convenience stores and gas stations. The majority of "HAZMAT" products that we sell are shipped as ORM-D Consumer Commodity due to the limited quantity of each package.
- Products shipped under the ORM-D classification are primarily single items which are packaged inside plastic totes which are marked "ORM-D Consumer Commodity". McLane Company delivers products to our customers using our own fleet of trucks. These products are loaded, driven to and unloaded from our vehicles by McLane employees. During the customer transportation cycle, all product are inside of our enclosed trailers and not visible.
- For products either damaged in our warehouse or returned from our customers, McLane utilizes an off-site "reverse logistics" company to process these items. Items are sorted and either salvaged, destroyed, donated to food banks, returned to vendor or shipped off-site for disposal as regulated waste.
- The items in question are consumer products packaged in aerosol cans such as insecticides (Raid), lubricants (WD-40) and automotive products (starting fluid). Typical damage to these cans is either a dented can or missing spray nozzle/cap. As part of their processing, our reverse logistics company has the ability to replace these missing valves and caps and turn an otherwise damaged can into a viable product that can be used by the consumer. An added benefit of this processing would be to reduce the volume of waste ultimately being generated and help to satisfy EPA's waste minimization requirement.

- QUESTION: With provisions for the downstream processing of these damaged aerosol cans into a viable product, would McLane still be able to ship the damaged aerosol cans from our warehouses to the reverse logistics company as a DOT ORM-D Consumer Commodity?

If you need additional information concerning this letter, please contact me at (254) 742-3462.

Regards,

A handwritten signature in black ink, appearing to read 'John C. Anderson', with a long horizontal line extending to the right.

John C. Anderson REP, CSP, CHMM
Environment, Safety & Health Manager
McLane Company, Inc.
4747 McLane Parkway
Temple, TX 76503-6115

cc:

B. McKay