



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUN 25 2012

Mr. Jeff Bailey
Safety Director
C & W Global
703 Hennis Road
Winter Garden, FL 34787

Ref. No. 12-0066

Dear Mr. Bailey:

This responds to your February 17, 2012 request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request confirmation that your drivers are not required to have a hazardous materials (HM) endorsement to their commercial driver's licenses (CDLs) in order to transport your slag material, "Environmentally hazardous substance, solid, n.o.s., (contains lead), Class 9, UN 3077, PG III, RQ 10."

In accordance with § 172.504(f)(9), placarding is not required for transportation of Class 9 material when shipped domestically. However, a bulk packaging must be marked with the appropriate identification number, and the number may be display on either a Class 9 placard, an orange panel, or a white square-on-point configuration. While the HMR allow display of the identification number on a Class 9 placard, use of this configuration does not make your drivers subject to the endorsement requirement under 49 CFR 383.93 of the Federal Motor Carrier Safety Regulations (FMCSR).

For purposes of the CDL HM endorsement, the term "Hazardous Materials" is defined in 49 CFR § 383.5 as a material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73. Therefore, pursuant to the FMCSR, a driver of a commercial motor vehicle transporting a Class 9 hazardous material that is excepted from placarding for domestic transportation, is not required to obtain a hazardous materials endorsement to his or her CDL.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division



Boothe
3172.101
3172.504
Proper Shipping Name
12-0066

703 Hennis Road Winter Garden, FL 34787 * P - 407-877-2600 * F - 407-877-7064

February 17, 2012

Mr. Charles E. Betts
Office of Hazardous Materials Standards
U.S. DOT / PHMSA (PHH-10)
1200 New Jersey Ave., SE East Building 2nd Floor
Washington, DC 20590

Dear Mr. Betts:

I would like to respectfully request an interpretation regarding a shipment of slag.

Proper shipping name: Feedstock for lead recycling operation.

Per the attached shippers order, this product is slag that contains lead. Environmentally hazardous substance, solid N.O.S (contains lead), class 9, UN3077, PGIII, RQ10.

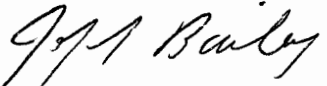
My understanding of the hazmat laws and CDL endorsement regulations is:

1. Per 49CFR 172.504 (9) this class 9 product only needs to be labeled, not placarded.
2. Our CDL drivers can transport it without a hazmat endorsement on their license.
3. If the customer chooses to put class 9, UN3077 placards on the trailer instead of using ID stick on labels on the trailer to ID the bulk product inside, does the fact that the trailer is ID with class 9 placards now make our drivers subject to needing a hazmat endorsement? Or is it correct to say that the class 9 UN3077 placards are exempt from needing the hazmat endorsement?

We want to transport this product in a tarp covered dump trailer. The product is dry and ships in an inert state at room temperature.

Would you please let us know if our interpretation of the laws are correct? I believe the product we want to transport would be covered by your response letter to Reynolds Transport and your answer to them would apply to us also.

Respectfully,


Jeff Bailey, Safety Director

C+W ⁺²⁰⁰ *Washing* ^{7/11}

Carrier No. 582
Date 2-7-12

TO: Gopher Resource
Consignee Gopher Resource
Street 3385 DOND HWY
City EAGAN State MINN Zip Code 55121

FROM: ENVIROFOCUS TECHNOLOGIES
Shipper ENVIROFOCUS TECHNOLOGIES
Street 6505 JEWEL AVE
City TAMPA State FL Zip Code 33619
24 hr. Emergency Contact Tel. No. 1-800-255-3924

Route _____ Vehicle Number 582

No. of Units & Container Type	HM	BASIC DESCRIPTION Proper Shipping Name, Hazard Class or UN or NA Number, Proper Shipping Name, UN or NA Number, Packing Group or Hazard Class, Packing Group	TOTAL QUANTITY (Weight, Volume, Gallons, etc.)	WEIGHT (Subject to Correction)	RATE	CHARGES (For Carrier Use Only)
<u>1</u>	<u>X</u>	<u>ENVIRONMENTALLY HAZARDOUS SUBSTANCE, SOLID, N.O.S.(CONTAINS LEAD), CLASS 9, UN 307 7, PG III, RQ 10</u>	<u>48500</u>	<u>LB</u>		
<u>VOOP</u> <u>2/9/2012</u>						
<u>CHEM-TEL 1-800-255-3924</u>						

PLACARDS TENDERED: YES NO

Note - (1) Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property, as follows: "The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding _____ per _____."
(2) Where the applicable tariff provisions specify a limitation of the carrier's liability absent a release or a value declaration by the shipper and the shipper does not release the carrier's liability or declare a value, the carrier's liability shall be limited to the extent provided by such provisions. See NIMCO Item 172.
(3) Commodities requiring special or additional care or attention in handling or stowing must be so marked and packaged as to ensure safe transportation. See Section 2(e) of item 360, Bills of Lading, Freight Bills and Statements of Charges and Section 1(a) of the Contract Terms and Conditions for a list of such articles.

REMIT C.O.D. TO: ADDRESS
COD Amt: \$ _____
C.O.D. FEE: PREPAID COLLECT \$ _____
TOTAL CHARGES \$ _____
FREIGHT CHARGES: FREIGHT PREPAID Check box if charges except when box at origin is checked are to be collect

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading, the property described above in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, careigned, and disposed as indicated above which said carrier (the word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination, if on its route, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed as to each carrier of all or any of, said property over all or any portion of said route to destination and as to each party at any time interested in all or any said property, that every service to be performed hereunder shall be subject to all the bill of lading terms and conditions in the governing classification on the date of shipment.

Shipper hereby certifies that he is familiar with all the lading terms and conditions in the governing classification and the said terms and conditions are hereby agreed to by the shipper and accepted for himself and his assigns.

SHIPPER ENVIROFOCUS TECHNOLOGIES
PER VOOP 2-7-12

CARRIER C+W
PER Kenneth 2-7-12 2
DATE 2-7-12

Permanent post-office address of shipper. PRINTED ON RECYCLED PAPER SOY INK STYLE F360-3 © 2003 LABELMASTER® (800) 621-5808 www.labelmaster.com

+200 *Washing* *7/11*

2-09-12 11:02AM
INBOUND 78060 LB
LOOP ID 1533
2-09-12 9:11PM
LOOP ID 1533

78060 LB GROSS
29540 LB TARE
48520 LB NET

3385 SOUTH HWY 149
EAGAN, MINNESOTA 55121
(651) 454-3310

Gopher Resource

CUSTOMERS NAME CTT
ADDRESS _____
COMMODITY SUP
CARRIER C+W #1 582
REMARKS 542

W-1-12

WEIGHED ON A FAIRBANKS SCALE

SECTION 14 – TRANSPORT INFORMATION

PROPER SHIPPING NAME: FEEDSTOCK FOR LEAD RECYCLING OPERATION

SECTION 15 – REGULATORY INFORMATION

U.S. DOT: Reverb slag is regulated by U.S. DOT as a hazardous substance.

Proper Shipping Name: Environmentally hazardous substance, solid, n.o.s., (contains lead)

Hazard Class/Division: 9

ID Number: UN 3077

Packing Group: III

Reportable Quantity: 10 lbs

U.S. TSCA: COMPONENTS ARE LISTED

SARA TITLE III (SUPERFUND AMENDMENTS & REAUTHORIZATION ACT): YES

ACUTE HEALTH: YES* CHRONIC HEALTH: YES*

FIRE: NO SUDDEN RELEASE OF PRESSURE: NO

REACTIVE: NO

- **DUE TO LEAD EXPOSURE AS DUST OR FUMES ONLY**

HAZARDOUS UNDER HAZARDOUS COMMUNICATION STANDARD: YES

CERCLA SECTION 103 HAZARDOUS SUBSTANCES: LEAD RQ: 10 Pounds

EPCRA SECTION 302 EXTREMELY HAZARDOUS SUBSTANCE: NO

EPCRA SECTION 311/312 HAZARD CATEGORIES:

DELAYED (CHRONIC) HEALTH HAZARD – Carcinogen & Reproductive Toxin.

EPCRA SECTION 313 TOXIC RELEASE INVENTORY: LEAD CAS # 7439-92-1 (% By Weight 15 – 50)

CALIFORNIA PROP 65, SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: WARNING: This product contains lead, a chemical known to the state of California to cause developmental toxicity.

SECTION 16 – OTHER INFORMATION

NOTE: Institutions using product may need to assess overall lead levels to conform to the OSHA Lead Standard (29CFR 1910.1025)

The information contained herein is believed to be accurate but is not warranted to be so. Users are advised to confirm in advance of need that information is current, applicable and suited to the circumstances of use. Vendor assumes no responsibility for injury to vendee or third persons proximately caused by the material if reasonable safety procedures are not adhered to as stipulated in the data sheet. Furthermore, vendor assumes no responsibility for injury caused by abnormal use of this material even if reasonable safety procedures are followed. Any questions regarding this product should be directed to the manufacturer.