



U.S. Department
of Transportation

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

**Pipeline and Hazardous
Materials Safety
Administration**

FEB 21 2013

Mr. Fred Guimond
Fred Guimond & Associates
2838 Crater Lake Drive
Baton Rouge, LA 70814

Reference No.: 12-0271

Dear Mr. Guimond:

This is in response to your December 3, 2012 letter posing several questions concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the metal, Selenium. Your questions are paraphrased and answered below:

Q1. Is Selenium (in shot form) with a diameter greater than 100 micrometers and a purity of at least 99.95% classified as a hazardous material even though it does not meet or exceed the reportable quantity (RQ) of a hazardous substance in § 172.101 Table 1 to Appendix A?

A1. As provided in § 173.22, it is the shipper's responsibility to properly classify a hazardous material. Such determinations are not required to be verified by this office. However, based on your information that the diameter of the described Selenium shot is greater than 100 micrometers and the RQ for Selenium is limited to those pieces smaller than 100 micrometers in diameter, the entry for UN3077, Environmentally hazardous substance, solid, n.o.s., class 9, would not be applicable in your case. Further, based on the MSDS provided and industry standard test results for Selenium shot indicating the LD₅₀ for acute oral toxicity is 6700 mg/kg, it is the opinion of this office that the described Selenium shot does not meet the definition of a Division 6.1 material and, provided it does not meet the criteria for any other hazard class, is not subject to the HMR

Q2. Can the hazard label be removed if it is on a package shipped to us?

A2. See A1. No person or carrier may offer or transport a package bearing a label unless the package contains a hazardous material and the label represents the hazard of the material (§ 172.401(a)). However, when offered for transportation, a package containing a hazardous material shall be labeled in accordance with Part 172, Subpart E and as provided in § 173.22, it is the shipper's responsibility to properly classify a hazardous material.

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

Sincerely,

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Fred Guimond & Assoc.
2838 Crater Lake Drive
Baton Rouge, LA 70814

Wiener
\$171.8
§ 172.101 Applicability
Dec. 3, 2012
12-0271

To: Dr. Magdy El-Sibaie
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Dear Dr. El-Sibaie

This letter concerns your designation of the metal, Selenium. We trade worldwide in all the metals in the Lead family, and this includes Se.

Right now, our suppliers are shipping us Se metal in the form of Shot. These are like shotgun size pellets, or BB's, about 1/8 inch diameter. These are all solid metal of standard commercial purity of 99.95% min. Se content. They are NOT a compound of Se.

The ONLY category of Se in your lineup is for "Selenium-compound, solid, NOS". This calls it a hazardous material, class 6.1, UN # 3283. Yet, in your addendum (cents sign) it says Se is NOT hazardous if it is over 100 microns in size. This is basically Se powder that is under 100 microns. Se metal shot is OVER 100 microns in size.

Our question is: Is Selenium metal-shot hazardous???

If it is truly NOT; are we allowed to remove a hazardous label if it is on a drum/pail of Se-shot shipped to us??

It seems to us that your main category of "Selenium-compound" is exclusionary. Why is there no main category for "Selenium-metal, solid" ??? You do this for LEAD, why not Se??

Your attention to this is important, as the metal producers right now are putting Haz. Labels on Se metal-shot shipments, and we think this is wrong, and is not needed. Could you give us a call after reviewing all this?? We would like to discuss it further.

Regards, Fred Guimond

