



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

DEC 21 2010

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

Mr. Wendell Honeycutt
Corrigan Consulting, Inc.
12000 Aerospace Ave., Suite 450
Houston, TX 77034

Ref. No.: 10-0224

Dear Mr. Honeycutt:

This responds to your October 12, 2010 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You describe an animal food product containing phosphoric acid and sulfuric acid and a pH < 2. You state that the product does not meet the definition of a hazardous substance, hazardous waste, or marine pollutant, as defined in § 171.8. Further, your preliminary analysis of available data on the product leads you to believe that it may meet the definition of a Class 8 (Corrosive) material because it may be corrosive to steel and aluminum. You indicate that the animal feed product has not been tested to determine if it causes full thickness destruction of human skin. Specifically, you ask if the material described in your letter meets the definition of a hazardous material, more specifically a Class 8 (Corrosive) material, under the HMR.

Section 173.22 requires a shipper to properly class and describe a hazardous material for transportation in commerce. This Office does not perform that function. A Class 8 (Corrosive) material is defined as a liquid or solid that causes full thickness destruction of human skin at the site of contact within a specified period of time. A liquid, or a solid that may become a liquid during transportation, that has a severe corrosion rate on steel or aluminum is also a Class 8 (Corrosive) material. See § 173.136. Your letter does not include sufficient information or data on the animal feed product to determine if the material meets the definition of a Class 8 (Corrosive) material under the HMR. If your assertion that the material is corrosive to steel or aluminum (see § 173.137(c)(2)) is correct, you then may be eligible for the exception in § 173.154(d). The exception states that a material that is a Class 8 (Corrosive) material solely because of its corrosive effect on aluminum or steel is not subject to the HMR if: (1) it is transported by highway or rail in a bulk packaging constructed of material that will not react dangerously with or be degraded by the corrosive material; (2) it does not meet the definition of any other hazardous class; and, (3) it does not meet the definition of a hazardous substance, a hazardous waste, or a marine pollutant, as defined in § 171.8.

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

Sincerely,

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

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Eichenlaub
§ 171.8
§ 172.10
Applicability / Classification
October 12, 2010 10-0224

*Certified Mail
Return Receipt Requested*

Mr. Charles E. Betts
Chief, Standards Development
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Standards
Mail Code: PHH-10
1200 New Jersey Ave., SE
Washington, DC 20590

**Re: Hazardous Materials Classification and Exemptions
Liquid Animal Feed Products Shipped in Bulk**

Dear Mr. Betts:

On behalf of a client, Corrigan Consulting, Inc. (CCI) is requesting an evaluation from the Pipeline and Hazardous Materials Safety Administration (PHMSA) regarding the applicability of hazardous materials requirements (Title 49 CFR Parts 105 to 180) to the transportation of liquid animal feed products. Our questions concern whether the animal feed meets the definition of hazardous materials as defined in 49CFR171.8 and whether there are any exemptions or exclusions that apply if the animal feed is considered a hazardous material.

The feed product has a pH that is <2 and contains phosphoric acid and sulfuric acid at levels that, when transported, would be below the hazardous substance reportable quantity. The feed product may be corrosive to steel and aluminum. The animal feed is shipped in bulk by tanker truck to distributors.

On behalf of our client, CCI has reviewed the regulatory requirements under 49 CFR Parts 172 and 173. The animal feed product was evaluated to determine whether it is classified as a hazardous material by reviewing the definition of hazardous materials at 49 CFR 171.8 and by reviewing the defining criteria for hazard classes in 49 CFR 173, specifically Class 8 compounds in 49CFR173.136. According to this citation, a corrosive material is a material that causes full thickness destruction of human skin or is corrosive to aluminum or steel unless experience or data indicates that the material is less hazardous than indicated by testing results. Our first question concerns whether the animal feed product meets the definition of a Class 8 material and subsequently a hazardous material since it is designed and manufactured as a product that is fed to animals. Experience in the use of this animal feed product indicates that it is not hazardous to animals which consume it or to humans which consume animal products.

In the event that the animal feed is classified as a Class 8 material, we have evaluated exceptions that may apply to animal feed products. CCI identified several regulatory exceptions, most of which do not appear to apply to this animal feed product for various

CORRIGAN CONSULTING, Inc.

reasons. These exceptions include §173.5, §173.6, and §172.500 of Title 49. CCI has identified one exception that may apply to animal feed products provided that the exception criteria can be met. Under 40CFR172.101, Hazardous Materials Table, exception 49CFR173.154 is listed for several corrosive materials. The first two exceptions under 49CFR173.154(b) and (c) do not appear to apply to the animal feed product due to quantity limitations.

However, CCI believes that the exception in 49CFR173.154(d) may apply to the animal feed product. According to this exception, it is applicable if the material is not a hazardous substance, a hazardous waste, or a marine pollutant and the material is classified as a Class 8, Group III material solely because it is corrosive to steel or aluminum. Based on our review of information for the animal feed product, it is not classified as a hazardous waste or marine pollutant and it is not a hazardous substance since it is a mixture that has less than the concentrations of hazardous materials listed under the definition of hazardous substance in 49CFR171.8. At this time, no skin tissue testing information is available to determine whether the animal feed is corrosive to skin. If testing is performed and demonstrates that the material is not corrosive to skin tissue as outlined in 49CFR173.137(c)(2), CCI believes that the animal feed product is exempt from the hazardous materials requirements under Title 49 CFR Parts 105 to 180.

We are requesting written concurrence on the applicability of the hazardous materials requirements, whether the animal feed meets the definition of a hazardous material, and whether any exceptions or exemptions apply to the transportation of the previously described animal feed. If you have any questions regarding this matter, please contact me at (281) 922-4766 or at wendallh@corrigan-consulting.com.

Sincerely,



Wendall Honeycutt, P.G.
Senior Technical Associate

WBH