



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

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

APR 21 2011

Mr. Ricardo Guerra
DS Environmental Solutions
Floral Park
62 Gautier Benitez
San Juan, PR 00917

Ref. No. 11-0070

Dear Mr. Guerra:

This responds to your December 21, 2010 letter and follow-up emails requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you inquire as to the applicability of the HMR to shipments of scrap dental amalgam. According to your letter, the material that you intend to ship is dental amalgam that is not derived from the medical treatment of humans, in that it has not been in contact with a patient; rather, it is the excess amalgam that remains unused in a dental filling procedure. You indicate that the amalgam contains approximately 50% mercury and 50% metal alloy, which is comprised of silver, copper and tin. You further state that you intend to ship approximately 6 ounces of amalgam at a time. You ask several questions regarding the classification of the scrap dental amalgam. Your questions are paraphrased and answered as follows:

Q1. Is the scrap amalgam considered to be regulated medical waste?

A1. Under § 173.22, it is the shipper's responsibility to properly classify and describe a hazardous material. This office does not normally perform that function. However, provided the amalgam does not come in contact with a patient or bodily fluids, it is not considered a regulated medical waste as defined in § 173.134 of the HMR.

Q2. Is the scrap amalgam considered a hazardous waste?

A2. The U.S. Environmental Protection Agency (EPA) and implementing states regulate the collection and management of certain widely generated wastes, such as mercury-containing equipment, as a universal waste. Certain states include dental amalgam waste as a universal waste. Universal waste is not subject to the Hazardous Waste Manifest Requirements specified in 40 CFR part 262 and thus, is not a hazardous waste as defined in the HMR (see § 171.8).

EPA Region 2 oversees the universal waste program for Puerto Rico. For more information regarding EPA universal waste regulations as they apply to dental amalgam, please contact the EPA Region 2 Division of Environmental Planning and Protection (DEPP) at 877-251-4575.

Q3. May we use the United States Postal Service (USPS), UPS or FedEx to ship the scrap amalgam?

A3. As we explain in A1, under § 173.22, it is the shipper's responsibility to properly classify and describe a hazardous material. However, it is our understanding that corrosive characteristics typically associated with liquid mercury are neutralized during the formation of amalgam. Therefore, given that amalgam does not meet the one pound RQ for mercury and does not meet any of the criteria of a hazardous material specified in § 171.8, it would not be subject to the HMR.

If you choose to transport the material using a common carrier, you should contact that carrier directly to determine if the carrier will transport the material. Postal shipments are under the jurisdiction of the USPS. Shipments of hazardous materials by the USPS are governed by 39 CFR Part 124, Domestic Mail Manual, U.S. Postal Service Regulations. For more information regarding the USPS hazardous materials regulations, you may call Mary Collins at 202-268-5440.

Q4. Do we need a permit issued by PHMSA to transport the scrap amalgam?

A4. No. See A3.

I hope this information is helpful. If you have further questions, please contact this office at (202) 366-8553.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ben Supko".

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



Winter
§172.101
§173.197
Proper Shipping Name
11-0070

Floral Park | 62 Gautier Benitez | San Juan, Puerto Rico 00917 | Tel. 787-923-8817 | dse.solutions, inc@gmail.com

December 21, 2010

To whom it may concern:

My name is Ricardo Guerra, president and owner of DS Environmental Solutions. My company is trying to give service to the dental community. Recovering various hazardous wastes that they produce in their offices. One of them is the dental amalgam. This commonly use metal mixture has been used around 150 years by dentists all over the world.

Today's dental community uses a pre-measure, pre-capsulated dental amalgam. These capsules contain approximately 50% mercury and 50% metal alloy (metal alloy composition: silver, copper and tin). When you observe the MSDS of different amalgam manufacturer they are almost the same. They mention mercury as a hazardous material and give all the information regarding this metal. We have to mention that the dentist receives the capsule containing the mercury and the metal alloy separately. In other words, inside the capsule you find a part that is solid (metal alloy) and another part that is liquid (mercury).

If the dentist needs to use the amalgam in a patient he put the capsule in a machine that is going to shake the capsule vigorously. After that the amalgam is ready to fill the cavity in the tooth. When the dentist finishes his job there is always an amalgam remainder. This residue is solid and I haven't found the MSDS of this product. My intention, as a company, is to recover that residue and send it, preferably by mail, to a company that recycles the material.

In order to the things correctly I have some questions that I haven't found the answer.

- 1) Is this residue consider as a:
 - a) Medical waste- regulated
 - b) Medical waste- non-regulated
 - c) Hazardous waste- regulated
 - d) Hazardous waste-non regulated
- 2) Can we send this material to the recycling company using United States Postal Service or other air cargo transport company like UPS or FedEx?
- 3) Do we need a permit issue by your department to transport the amalgam residue? If is yes, how can I can I access an application and what kind of permit we need to comply the regulations.

Please include in the answer the correct course of action regarding the correct way of transporting it. Including correct packaging and labeling. Consider that biggest amount of amalgam to be ship is around 6 ounces. Thanks in advance for your time and effort.

Sincerely,

Ricardo Guerra

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