U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

JUN 20 2001

Mr. David M. Kolan
Environmental Scientist
Org. G-1244, M/C 7A-WH
The Boeing Company
P. O. Box 3707
Seattle, WA 98124-2207

Reference No.: 01-0020

Dear Mr. Kolan:

This is in response to your inquiry concerning the placement of the waste code in the shipping description shown on a shipping paper under 49 CFR 172.203. Specifically, you ask whether the waste code may precede the shipping name, for example, as follows:

RQ (D001), Waste Flammable Liquid, n.o.s. (methyl ethyl ketone, toluene), 3, UN 1993, PG III.

The answer is no. Under § 172.203(c)(1), the waste code number must be identified in parentheses "in association with" the basic description when the waste code is used to identify the hazardous substance. The term, "in association with," means that the component may follow the basic description of the hazardous material in any reasonable format, provided it is clearly part of the entry. The basic description consisting of the proper shipping name, hazard class, identification number, and packing group is required by § 172.202(b) to be entered in sequence, with authorized exceptions. This position is supported by the preamble discussion of the final rule that adopted this terminology into the HMR (copy enclosed). Among the authorized exceptions are entering the letters "RQ" before or after the basic description as authorized by § 172.203(c)(2) and entering the technical name or chemical name between the proper shipping name and hazard class as authorized by § 172.202(d).

I hope this satisfies your request. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Enclosure

cc: Ms. Linda Schinke, Safety Manager
Commercial Vehicle Division

172.203

010020

Enclosure [redacted]

n.o.s. be revised to agree with those provided for the same entries in § 172.101. Since the IMCO Code allows stowage of these materials as specified by the competent authority, MTB agrees that the proposed change is entirely appropriate and has revised the stowage location designations accordingly.

An objection was raised to the identification numbers indicated for the entries Sodium fluoride, solution and Silicofluorides, solid, n.o.s. on the basis that neither the IMCO Code nor the UN Recommendations specifies an identification number for those entries. Numbers for these materials were, however, adopted by the UN Committee at its Tenth Session (December 1978) and will appear in the next edition of the UN Recommendations. The numbers contained in the proposal have, therefore, been retained. The same commenter suggested that the letter "N" be inserted before the entry "Hydrazine, anhydrous and solutions containing less than 36% water by weight" because the class and labels provided for these hydrazine solutions in the Optional Table disagree with the DOT class and labels for these materials and because he considered the DOT classification to be adequate. MTB believes that use of the IMCO class and labels for these solutions will not result in a derogation of safety in transportation. The insertion of the letter "N" before entries solely because the class and label(s) under IMCO may be different from those provided in § 172.101 is contrary to the purpose and intent of adopting the Optional Table. The suggestion has, therefore, not been incorporated into the Optional Table.

A number of requests were received to add certain shipping descriptions to the Optional Table which appear as proper shipping names in § 172.101 and are also acceptable alternate descriptions for the materials in the IMCO Code. Such descriptions have been included in Roman type in the Optional Table with a cross reference to the entry which appears as the primary description for the material in the IMCO Code. Other comments requested the addition to the Optional Table of certain shipping descriptions which appear in § 172.101 but not in the IMCO Code. MTB does not consider it appropriate to add such entries because they are not recognized by IMCO for international shipments.

One commenter noted several discrepancies between the entries for "Fishmeal" or "Fishscrap" in the Optional Table and those in the IMCO Code. The entries in the Optional Table have been revised to agree with those in the IMCO Code.

Section 172.200. Section 172.200(b) is revised as proposed in Dockets HM-145A and HM-145B, to remove the ORM exceptions to the shipping paper requirements when a material being offered or transported is a hazardous waste or a hazardous substance. The wording of the proposal has been simplified in the final rule, without changed effect. The proposed entry for ORM-E materials has been deleted since the exception proposed in the Notice is unnecessary under the final rules.

Section 172.201. Paragraphs (a)(1)(ii), (a)(1)(iii), and (a)(4)(i) of § 172.201 are revised by MTB to accommodate the revision to § 172.202(a)(3) which requires the identification number preceded by "UN" or "NA", as appropriate, to be entered as the third element of the basic description, as proposed in Docket HM-126A. Also, MTB added a provision to paragraph (a)(1)(iii) to authorize the entry of "RQ" in the "HM" column in place of the "X" to identify the entry as representing a hazardous substance. This was recommended by several commenters, and MTB concurs. As proposed in Docket HM-171, paragraph (a)(4)(i) is amended to allow the optional insertion of the entries "IMCO" or "IMCO Class" in the hazardous materials description on the shipping papers. MTB believes that certain shippers may desire to include these entries to clarify the fact that a hazardous material is being offered under the IMCO hazard class, particularly when this hazard class differs from that provided for the material in § 172.101. A proposal that the entry "IMCO" be allowed to appear immediately before the proper shipping name has not been adopted since it is MTB's belief that the proper shipping name should appear first in the basic hazardous materials description.

Section 172.202. Paragraphs (a)(1) and (a)(2) are revised by MTB to clarify the fact that the entries in § 172.102 are optional. Also, paragraph (a)(2) is revised to reduce some of the shipping paper entries. Whenever entries from the Optional Table are used for domestic shipments, § 171.102 applies. A number of commenters expressed concern that the proposal would allow unrestricted mixing of DOT and IMCO shipping descriptions, classification and labeling which could result in confusion and suggested that this paragraph be amended to prevent such unrestricted mixing. MTB agrees with these comments and has amended § 172.202 to require that the proper shipping name, class and identification number for a material appearing on the shipping paper must be taken either entirely from § 172.101 or entirely from § 172.102, and has amended § 172.400 to insure that the package labeling is consistent with the proper shipping name market on the package.

Various methods were suggested by commenters for insuring that some indication is included in the shipping paper description when an entry from § 172.102 is being utilized. MTB believes that such an indication is already provided, since the class of a material is always expressed numerically in Column (3) of the Optional Table and, therefore, would have to be indicated in the same manner on the shipping papers. This means that a numerical indication of the class on the shipping papers will serve as a direct indication that the entry under which the material is offered is taken from § 172.102.

Paragraph (b) is revised for clarity and to provide an example since the rule change to paragraph (a)(2)(ii) made the previous example, Corrosive liquid, n.o.s., incorrect. It should be noted, as paragraph (b) now indicates, that the basic description now consists of three elements: the proper shipping name, the hazard class, and the identification number. However, technical names may be required to be entered after the proper shipping name. These requirements were proposed in Dockets HM-126A and HM-145B.

Some shipping paper entries are required to be made "in association with" the basic description. The term "in association with" means that the additional entry may follow the complete description for a hazardous material in any reasonable format, as long as it is clearly part of the entry.

The requirement to enter the basic description in a prescribed sequence, with certain exceptions specified, does not preclude the use of a shipping paper format with columns. However, the basic description sequence must be maintained, with authorized exceptions.

Paragraph (b) is revised to show the addition of the identification number to the basic description.

One commenter suggested that a provision be added which would require the indication of flashpoint on shipping papers in order to assist water carriers in planning vessel stowage. MTB believes that, in general, the indication of the appropriate IMCO division number for flammable liquids sufficiently specifies flashpoint for stowage purposes, and that the relatively few instances where the stowage of hazardous materials of other classes is dependent on flashpoint

The Boeing Company
P.O. Box 3707
Seattle, WA 98124-2207

Corbin
§172.203(c)
Shipping Papers

January 17, 2001
G-1244-DMK-003

Mr. Edward Mazzullo, Director,
Office of Hazardous Materials Standards (DHM-10),
Research and Special Programs Administration,
Room 8422,
400 Seventh Street, SW.,
Washington, DC 20590-0001

BOEING

Dear Mr. Mazzullo:

Subject: Shipping Papers
Interpretation of 49 CFR 172.203(c) et al.

I am writing to inquire about the appropriate interpretation of the rule noted above, as it relates to shipping papers for hazardous wastes. I inquire as a result of a Uniform Driver/Vehicle Inspection Report, a copy of which is enclosed with this letter. We feel that there are at least two ways to indicate the RQ and hazardous substance information on a manifest and packaging label. One way to indicate RQ information with the basic description is as follows:

> Waste Flammable Liquid, n.o.s., (methyl ethyl ketone, toluene),
> 3, UN1993, PG II, RQ (D001)

Specifically, I would like to know whether it also complies with U.S. Department of Transportation (DOT) rules if one identifies a hazardous substance on a manifest as follows:

> RQ (D001), Waste Flammable Liquid, n.o.s., (methyl ethyl ketone, toluene),
> 3, UN1993, PG III.

That is, is it acceptable to place a waste code in a parenthetical after the letters "RQ" but in front of the basic description?

We have interpreted 49 CFR 172.203(c)(2), which requires placing the letters "RQ" either before or after the basic description, to allow the parenthetical information (naming the relevant hazardous substance or applicable RCRA waste code) to be identified as a unit with the letters "RQ." This sequence, of course, makes common sense, in that it clearly identifies the substance triggering the RQ designation. It is also consistent with 49 CFR 203(c)(1), which requires the name of the hazardous substance, or a waste code, to be entered in parentheses in association with the basic description.

It is also the only way to achieve consistency between the shipping paper sequence and the non-bulk package labelling requirements in 49 CFR 172.324. This latter provision requires the letters RQ and the name of the hazardous substance, or a waste code, to be marked in association with the proper shipping name on the package. Since 49 CFR 172.202 requires that the proper shipping name be the first part of the basic description and 49 CFR 203(c)(2) requires placing the letters "RQ" either before or after the basic description, then the only way to have the RQ and the name of the hazardous substance, or a waste code, marked in association with the proper shipping name is to put them both up front.

BOEING

Our interpretation also appears to be consistent with 49 CFR 172.202(b), which prohibits changing the sequence of the basic description or interspersing additional information "except as provided in this subpart" (i.e., Subpart C, Shipping Papers), since it appears that the letters "RQ" and the name of the hazardous substance, or a waste code, should be associated with the proper shipping name.

We would appreciate your guidance on this question. Please do not hesitate to contact me at (425) 865-6521. Thank you for your assistance.

Sincerely,

David M. Kolan
Environmental Scientist
Org. G-1244, M/C 7A-WH
Phone: 425-865-6521
E-mail: david.m.kolan@boeing.com

Cc: Ms. Linda Schinke, Safety Manager
Commercial Vehicle Division,
Washington State Patrol