



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

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

DEC 17 2002

Mr. Robert W. Stephens
Vice President of Operations
Exotherm Technology, Inc.
5544 Riverton Court
Plano, TX 75093

Reference No. 02-0291

Dear Mr. Stephens:

This is in response to your October 31, 2002 letter and recent telephone conversations with my staff asking if your company's product, a fish attractant pellet, would be subject to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that the fish attractant pellet is identical in composition, packaging material and number of inner packagings per box as that you described in your June 24, 2002 letter, except for being packaged 12 pellets to a blister-pack inner packaging instead of 8. In our August 28, 2002 response, we determined the product packaged eight pellets to a blister-pack inner packaging is not subject to the HMR.

Based on your information stating the fish attractant pellets packaged 12 pellets to a blister-pack inner packaging is otherwise identical to that described in your June 24, 2002 letter, we take a similar position that it is not subject to the HMR. Likewise, this determination does not apply to fish attractant pellets shipped in another type of packaging or those containing more than 0.26 grams of magnesium.

I hope this satisfies your request. If we can be of further assistance, please contact us.

Sincerely,

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



020291

173.124

October 31, 2002

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Reference No. 02-0183

Dear Mr. Mazzullo:

Subject: FISH ATTRACTANT PELLETT

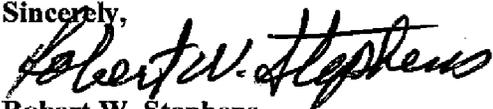
BACKGROUND: In my letter to you of June 24, 2002, a clarification was requested regarding the transportation of a new product. This correspondence is attached. My request was assigned to and was handled in admirable fashion by Eileen Edmunson of your staff, and, on August 28, 2002, a determination was issued by your office (also attached).

CURRENT SITUATION: Competitive marketing pressures require that we now package the new product in packages of 12 pellets instead of the 8 pellets as originally requested and as was originally approved. I have discussed this request with Eileen Edmunson and Spencer Watson by telephone. Mr. Watson suggested a written request to you.

REQUEST: On an urgent basis, my company hereby requests your determination allowing the packaging of the fish attractant pellets in packages of 12 instead of 8. All other product and packaging criteria remain the same.

My apologies for creating more work for you and my thanks in advance for your urgent attention.

Sincerely,



Robert W. Stephens
Vice President
Exotherm Technology, Inc.
5544 Riverton Court
Plano, Texas 75093

Phone: 903.769.0700

Fax: 903.769.0618

Email: ExoTech@att.net

Edmunson
§ 173.124
Definitions
Packaging
02-0291

June 24, 2002

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Sir:

Over the past few years, our company has been in the process of developing a novel FISH ATTRACTANT PELLETT utilizing the attributes of a magnesium alloy to provide noise and movement when inserted into a plastic fishing tube. The associated noise and movement are initiated upon contact of the FISH ATTRACTANT PELLETT with water and does, indeed, suggest benefit to the serious sport fisherman and commercial success for our company. We filed for patent protection on 3/21/01 with U.S. Patent Application # 09/812,414.

As we approach the production phase with this new product, we need clarification of DOT requirements for transport. Our FISH ATTRACTANT PELLETT is composed of a magnesium alloy, blended with a high and low density polyethylene with 15% salt added. Our supplier of basic material is a provider of the flameless ration heater (FRH) used in military meals ready to eat (MRE's) which have been previously discussed with your organization in relation to hazard class 4.3. (See attached.)

Our FISH ATTRACTANT PELLETT weighs only 10 grains (~700 per pound) and will be packaged under humidity-controlled conditions. Each individual package will contain eight pellets and will be double sealed for shipment. (A similar package is included.)

Since a package of eight FISH ATTRACTANT PELLETTs have only two grams of magnesium compared to eight gram of magnesium in a single FRH, it seems reasonable that the FISH ATTRACTANT PELLETTs pose significantly less risk as a "dangerous when wet" hazard than the FRH. It appears that your determination "that a single FRH device, containing eight grams of magnesium alloy or less packaged in a tough plastic envelope within an MRE, is in quantity and form which does not pose a hazard in transportation and is not subject to the Hazardous Materials Regulations (HMR), regardless of the number of MREs in a package" could be prudently applied to the FISH ATTRACTANT PELLETT.

I hereby request your interpretation and clarification on an urgent basis.

Sincerely,



Robert W. Stephens
Vice President of Operations
Exotherm Technology, Inc. (ExoTech)
5544 Riverton Court
Plano, Texas 75093



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

AUG 28 2002

Mr. Robert W. Stephens
Vice President of Operations
Exotherm Technology, Inc.
5544 Riverton Court
Plano, TX 75093

Reference No. 02-0183

Dear Mr. Stephens:

This is in response to your June 24, 2002 letter and recent telephone conversations with Eileen Edmonson of my staff concerning whether your company's product, a fish attractant pellet, would be subject to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

You state each pellet weighs 10 grains (.648 grams) and is composed of 0.26 grams of magnesium. You state 8 pellets are hermetically sealed individually onto a polyethylene/aluminum foil blister packaging that is packed inside a re-sealable polyethylene bag, and further packed in an outer fiberboard box. The outer fiberboard box will contain 100 re-sealable bags.

Based on the information you provided, it is our determination that the fish attractant pellet is in a quantity and form that does not pose a hazard in transportation and, therefore, is not subject to the HMR, regardless of the number of fish attractant pellets contained in one outer package. However, this determination does not apply to fish attractant pellets shipped in another type of packaging or those containing more than 0.26 grams of magnesium.

I hope this satisfies your request. If we can be of further assistance, please contact us.

Sincerely,

for
Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards

TOTAL P. 02