



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

DEC 20 2005

Ms. Elizabeth Novak
Environmental Waste Specialists, Inc.
14100 Sullyfield Circle, Suite 400
Chantilly, VA 20151

Ref. No. 05-0291

Dear Ms. Novak:

This is in response to your letter requesting additional clarification of our response (Ref. No. 05-0260, November 4, 2005) to your request for interpretation of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments of asbestos contained in manufactured products. Specifically, you ask whether Special Provision 156 applies to asbestos products that have been broken.

If the broken, manufactured products are crumbling or brittle such that the asbestos is no longer contained in the manufactured article (friable), Special Provision 156 does not apply. A friable asbestos-containing material is regulated as a hazardous substance under the HMR when packaged in quantities of one pound or more of friable asbestos in one package.

I hope this information is helpful.

Sincerely,

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



050291

172.102 SP 156



Environmental Waste Specialists, Inc.

Transportation & Disposal of Hazardous Waste, Asbestos, Lead and Soils

November 15, 2005

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McIntyre
§ 172.102 SP156
Special Provision
05-0291

Ms. Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Ref. No. 05-0260

Re: Asbestos Contained in Manufactured Products

Dear Ms. Mitchell,

Thank you very much for your letter of reply pertaining to the clarification of the applicability of the Hazardous Material Regulation (HMR) pertaining to the shipment of asbestos contained in manufactured products.

I have one additional question pertaining to the shipment of asbestos contained in manufactured articles, (for example, vinyl floor tile, roofing papers), or immersed or fixed in a natural or artificial binder material.

If these articles become broken, does it still meet the exception found in 172.102 Special Provision Number 156?

Thank you again for your help in this matter.

Sincerely,

Elizabeth Novak
Manager

Attachment

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Washington, D.C. 20590

NOV -4 2005

Ms. Elizabeth E. Novak
Environmental Waste Specialists, Inc.
14100 Sullyfield Circle, Suite 400
Chantilly, VA 20151

Ref. No. 05-0260

Dear Ms. Novak:

This is in response to your letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments of asbestos contained in manufactured products.

Your interpretation of the HMR regarding the exceptions for the shipment of asbestos is correct. As provided in § 172.102, Special Provision 156, asbestos contained in manufactured articles, (for example, vinyl floor tiles or roofing papers), or immersed or fixed in a natural or artificial binder material (for example, cement or asphalt) is not subject to the HMR.

You also ask whether these materials, if non-regulated, require a shipping description and package marking. The answer is no. Moreover, packages containing materials that are not subject to the HMR may not be marked, certified, or otherwise represented as a hazardous material when a hazardous material is not present (see § 171.2(k)).

I hope this information is helpful. Please contact this office if you have additional questions.

Sincerely,

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

or Fish scrap, unstabilized." UN1374. The special provision specifies that if the temperature of fish scrap at the time of loading either exceeds 35 °C (95 °F), or exceeds 5 °C (41 °F) above the ambient temperature, whichever is higher, the fish scrap may not be transported. Also see § 173.218 for additional discussion.

- ▼ New Special Provision 156 would be added for assignment to three entries, "Blue asbestos (*Crocidolite*) or Brown asbestos (*amosite, mysarite*)," UN2212, "White asbestos (*chrysotile, actinolite, anthophyllite, tremolite*)," UN2590, and "Asbestos," NA2212. The special provision provides an exception from the HMT for certain asbestos. The exception, which is currently in § 173.216(b), excepts asbestos immersed or fixed in a natural or artificial binder material and asbestos contained in manufactured products. We received comments that the current § 173.216 location for this exception is not appropriate because it is referenced in the non-bulk column of the IIMT, leading readers to believe that the exception applies to non-bulk packagings only. To clarify that this exception applies to both non-bulk and bulk packagings, we are proposing to move the exception from § 173.216(b) to proposed Special Provision 156.
- New Special Provision 157 would be added to the entries "Vehicle, flammable gas powered," and "Vehicle, flammable liquid powered," each of which is assigned to UN3166. The proposed special provision specifies that the use of the entries includes hybrid electric vehicles powered by both internal combustion engines and wet, sodium or lithium batteries.
- New Special Provision 159 would be added to the entry "5-tert-Butyl-2,4,6-trinitro-m-xylene or Musk Xylene," UN2956. The special provision requires this material to be protected from direct sunshine and kept in a cool, well-ventilated place away from sources of heat.
- New Special Provision 160 would be added to the entry "Air bag inflators, or Air bag modules, or Seat-belt pretensioner," UN3268, Class 9. The special provision includes the requirement that air bag inflators and modules must be tested in accordance with Test series 6(c) of Part I of the UN Manual of Tests and Criteria, and also includes an exception from testing air bag modules that contain an inflator previously approved for transportation. Also, see § 172.102, HMT, which includes additional

proposed revisions such as removing the italicized word "pyrotechnic" from the UN3268 entry.

- New Special Provision 161 would be added to the entry "Air bag inflators, pyrotechnic or Air bag modules, pyrotechnic or Seat-belt pretensioner, pyrotechnic," UN0503, Division 1.4G. The special provision specifies that the UN0503 entry may not be used for domestic transportation, and that the more appropriate description is "Articles, pyrotechnic for technical purposes," UN0431. We are specifically requesting comments concerning whether this may result in an unnecessary burden for international shippers. We are not aware of any air bag inflators that are transported as Division 1.4G in the United States. Also, see § 172.102, IIMT, which includes the proposed amendment to remove the italicized word "pyrotechnic" from the UN0503 entry.
- New Special Provision 162 would be added to eight proposed entries and two existing entries. The Special Provision authorizes the material to be transported under the provisions of Division 4.1, only if it is so packed that at no time during transport will the percentage of diluent fall below the percentage that is specified in the proper shipping name. The proposed new entries are "4-Nitrophenylhydrazine, with not less than 30% water, by mass," UN3376; "Sodium dinitro-*o*-crocolate, wetted, with not less than 10% water by mass," UN3369; "Trinitrobenzene, wetted, with not less than 10% water by mass," UN3367; "Trinitrobenzoic acid, wetted, with not less than 10% water by mass," UN3368; "Trinitrochlorobenzene (picryl chloride), wetted, with not less than 10% water by mass," UN3365; "Trinitrophenol (picric acid), wetted, with not less than 10% water by mass," UN3364; "Trinitrotoluene (TNT), wetted, with not less than 10% water by mass," UN3370. The two existing entries are "Barium azide, wetted with not less than 50 percent water, by mass," UN1571 and "Dipicryl sulfido, wetted with not less than 10 percent water, by mass," UN2852.
- New Special Provisions A54 and A55 would be added to address certain requirements for the transportation of lithium batteries by aircraft. Special Provision A54 provides an approval provision that authorizes lithium batteries and lithium batteries contained in equipment or packed

with equipment to exceed the quantity limits as specified in Column (9B) of the HMT when transported by cargo aircraft, if approved by the Associate Administrator. Special Provision A55 provides an approval provision to authorize prototype batteries to be transported by cargo aircraft if approved by the Associate Administrator. Special Provisions A54 and A55 would be assigned to "Lithium battery," UN3090, "Lithium batteries, contained in equipment," UN3091 and "Lithium batteries packed with equipment," UN3091.

—New Special Provision A56 would be added to address the air transport of radioactive material with subsidiary hazards of Divisions 4.2, Packing Group I, 2.1 or 2.3, Division 4.2, Packing Group I subsidiary hazard materials would be required to be transported by aircraft in Type B packagings only. Division 2.1 subsidiary hazard materials would be prohibited from passenger aircraft. The special provision is in alignment with the ICAO Technical Instruction's Special Provision A78, with regard to radioactive materials with Division 2.1 subsidiary hazard but not the Division 4.2, PG I packaging requirement or the Division 2.3 subsidiary hazard approval provision. Proposed Special Provision A56 includes Division 4.2, PG I because we believe it was inadvertently omitted in ICAO's Special Provision A78, and we understand that steps are being taken to address the matter with the ICAO Dangerous Goods Panel. See the § 172.101 HMT in the regulatory text of this rule for specific entries.

—Special Provision IB3 would be revised by excepting "Ammonia solutions, relative density between 0.880 and 0.957 at 15 degrees C in water, with more than 10 percent but not more than 35 percent ammonia," UN2672 from the special provision's "Additional Requirement" that authorizes liquids with a vapor pressure less than or equal to 110 kPa at 50 °C (1.1 bar at 122 °F), or 130 kPa at 55 °C (1.3 bar at 131 °F). Proposed new Special Provision IB8 would also be added to the UN2672 entry.

—Special Provision IB52 (Table 2) would be revised by adding additional packaging authorizations for certain entries and correcting various typographical errors. The entry "Dicumyl peroxide," UN3110 would be corrected by adding "2000" as the maximum quantity in liters. In addition, we are proposing to move the approval provision for formulations not covered in Special Provision IB52 to § 173.225(c)(5).