



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

MAR 1 1995

Mr. J.S. Sebbens  
Manager, Transportation and Distribution  
Koppers Industries, Inc.  
436 Seventh Avenue  
Pittsburgh, PA 15219-1800

Dear Mr. Sebbens:

This is in response to your letter dated January 31, 1995, requesting a clarification of marking requirements in § 172.322(d)(3) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the highway transportation of a placarded bulk packaging containing a hazardous material that is also a marine pollutant.

You state that the material is being shipped as an "Environmentally hazardous substance, liquid, n.o.s." containing chemicals regulated as marine pollutants, and, properly described on the shipping paper. You also state that the shipment is marked and placarded as a Class 9 - Miscellaneous Hazardous Material.

Your interpretation of § 172.322(d)(3) is correct. Except for transportation by vessel, provided the bulk package is properly labeled or placarded according to Subparts E or F of the HMR, the additional "Marine Pollutant" mark is not required.

I hope this satisfies your inquiry. If you need additional assistance, do not hesitate to contact us.

Sincerely,

Delmer F. Billings  
Chief, Regulations Development  
Office of Hazardous Materials Standards

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# KOPPERS INDUSTRIES

Koppers Industries, Inc.  
Purchasing & Traffic Dept.  
436 Seventh Avenue  
Pittsburgh, PA 15219-1800

January 31, 1995

Telephone: (412) 227-2776  
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Mr. Ed Mazullo  
U. S. Department of Transportation  
Research and Special Programs Administration  
Office of Hazardous Materials Standards  
400 Seventh Street, SW  
Washington, DC 20590

DB  
File 172.322  
SC: 161, 230

Re: Marine Pollutant Markings

Dear Mr. Mazzullo:

Koppers Industries, Inc. produces and ships a product in bulk, specifically, a creosote/coal tar solution that is classified as a hazardous substance according to 49 CFR 171.8. Additionally, the material contains chemicals listed in Appendix B to Part 172.101 that are classified as marine pollutants. The product is shipped as an environmentally hazardous substance, liquid, N.O.S. and is regulated as a Class 9 miscellaneous hazardous material. We placard the vehicle Class 9 with the identification number 3082 on each end and each side. "Marine Pollutant" also appears on our shipping documents in the description according to 49 CFR 172.203(L)(1) and (2).

We would appreciate an interpretation of Section 172.322(D)(3). It is our interpretation that the product as classified, described, marked and placarded as a hazardous substance, and displaying the Class 9 placard, does not require further marking as a "Marine Pollutant" except for transportation by vessel. Shipments in question are transported only by rail and highway domestically. When HM-211 was published and RSPA reviewed comments relating to the docket, several commenters objected to the additional marking as a Marine Pollutant for materials that are already subject to the HMR and are placarded accordingly. It was our understanding that bulk packages transported by air, rail, or highway would not have to display the marine pollutant marking if the material already meets the definition of a hazardous material, hazardous substance, or hazardous waste and is marked, labeled, and/or placarded accordingly, and the entry "Marine Pollutant" appears on the shipping paper.

We respectfully request your interpretation of 49 CFR<sup>7</sup> 172.322(D)(3) applicable to the bulk highway transportation of a placarded material containing a marine pollutant.

Kindly direct your response to the attention of the undersigned, and we thank you in advance for your cooperation.

Very truly yours,

*J. S. Sebbens*  
J. S. Sebbens

Manager, Transportation and Distribution

JSS/mjg

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