U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

NOV 2 4 2014

Mr. Peter Olsen
Transportation Systems Solutions
318 Hampshire Lane
Crystal Lake, IL 60014

Ref. No. 14-0058

Dear Mr. Olsen:

This responds to your March 21, 2014 request for clarification on combustible liquid material under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask about classification of material to a more stringent classification and classification of a non-hazardous material as hazardous.

In your letter, you state you intend to reclassify and rename a combustible liquid (NA1993, Combustible liquid, PG III) as a flammable liquid (UN1993, Flammable liquid, PG III) material. It is your understanding that although § 173.150 authorizes an exception in order to reclassify a flammable liquid with a flashpoint at or above 100°F to a combustible, describing the material as flammable does not diminish the intent of the HMR and could provide a higher level of packaging protection and a higher level of emergency response in the event of an incident. In addition, you want to classify your product as combustible regardless of whether it meets the defining criteria of a hazardous material. You note your line of product sometimes meets the combustible liquid defining criteria and at other times does not. Your questions are paraphrased and answered below.

Q1. May I classify a combustible liquid as a flammable liquid?

A1. Section 173.150 provides an exception to reclass a flammable liquid to a combustible liquid under certain conditions. However, it is not required under the HMR that you use the exception. If the flash point of your material is greater than 140°F but less than 200°F and does not meet the definition of any other hazard class, it must be classed as a combustible for domestic transportation. If the flash point is greater than or equal to 100°F but less than 140°F and does not meet the definition of any other hazard class, it may be reclassed as a combustible. The materials you refer to should be classed and described according to defining criteria in § 173.120 and the shipper's knowledge of the material. Therefore, if the material meets the definition of a combustible liquid in § 173.120, then it should be classed and described as such, e.g., NA 1993, Combustible liquid, PG III.

Q2. For ease of shipment, may I classify a product that fluctuates above or below a flashpoint of 200°F as combustible regardless of the flashpoint?

A2. A material with a flash point greater than or equal to 200°F that does not meet the definition of any other hazard class, may not be shipped as a hazardous material. In accordance with § 171.2(k), no person may, by marking or otherwise, represent that a hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel if the hazardous material is not present. Therefore, you may not ship all batches of you product as combustible if the properties of the batches vary such that the product fluctuates between hazardous and non-hazardous material. It is the shipper's responsibility to properly class and describe a material as hazardous for transportation in commerce in accordance with § 173.22.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Stevens Petition
3173.150(f)
Exceptions
14-0058

Transportation Systems Solutions

318 Hampshire Lane
Crystal Lake
Illinois, 60014
815-479-0897

To whom it may concern,

Transportation Systems Solutions (TSS) respectfully requests an interpretation as to if a NA1993 combustible liquid packing group III may be re-classified and re-named as a UN 1993 flammable liquid packing group III. TSS respectfully suggests that given 173.150(f) allows for a flammable liquid with a flashpoint above 100°F to be reclassified as combustible liquid, and in the event of being transported in non-bulk packaging the regulations do not apply, (i.e. more stringent to less stringent), that reclassifying a combustible liquid as flammable (i.e. less stringent to more stringent) would not diminish the intent of the regulations and could provide for a higher level of packaging protection and a heightened level of emergency response in the event of an incident.

TSS also requests an interpretation as to if a liquid with a flashpoint above 200°F may be classified as a combustible liquid. Given the scenario that if the consistency of a product meant that the flashpoint of a product fluctuated above or below 200°F making one batch combustible and possibly another batch non-regulated would it be permissible to classify the non-regulated batch as a combustible liquid such that all batches would be shipped as a combustible liquid. Classifying the product as a combustible would eliminate any confusion and potential for non-compliant situations such as failing to placard a bulk container or failing to provide a bill of lading.

I thank you for your time and look forward to your response

Yours sincerely,
Peter Olsen

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, March 21, 2014 4:27 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Letter of interpretation
Attachments: PHMSA interpretation request.doc

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation. This version has the attachment.

Thanks,
Victoria

From: Peter Olsen [mailto:peterolsen@att.net]
Sent: Friday, March 21, 2014 3:20 PM
To: INFOCNTR (PHMSA)
Subject: Letter of interpretation

Please find attached my letter requesting an interpretation for re-classifying and re-naming a combustible liquid as a flammable liquid.

Kind regards
Peter Olsen