



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

MAR 24 2014

Mr. Gary P. Sanders
Anpersan, LLC
5209 San Jose Boulevard
Jacksonville, FL 32207

Reference No. 13-0212

Dear Mr. Sanders:

This is in response to your November 8, 2013 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to classification. Specifically, you ask how a material with a flashpoint between 100 °F and 141 °F that meets the definition of A Class 3 (flammable) liquid is regulated in transportation under the HMR if it also meets the definition of a marine pollutant, is re-classed as combustible liquid, and is shipped in non-bulk containers by motor vehicle or railcar.

In the scenario you describe, a combustible liquid is not subject to regulation under the HMR. A Class 3 liquid material with a flashpoint at or above 38 °C (100 °F) and not more than 60 °C (140 °F) may be classed as a flammable liquid, or reclassified as a combustible liquid, provided it does not meet the definition of any another hazard class (see § 173.120(a) and (b)(2)). Also, provided it is not a hazardous substance, hazardous waste, or marine pollutant, a combustible liquid is excepted from regulation as a hazardous material when placed in a non-bulk package (see §§ 171.8 and 173.150(f)(2)). A marine pollutant is excepted from regulation under the HMR when placed in a non-bulk packaging and offered or intended for transportation by aircraft, motor vehicle, or railcar (see § 171.4(c)). Therefore, a combustible liquid that is a marine pollutant and offered or transported in a non-bulk container by motor vehicle or railcar is not considered a marine pollutant under the HMR.

I hope this satisfies your request.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Edmonson
§ 173.150(f)
Combustible Liquids
Exceptions
13-0212

From: INFOCNTR (PHMSA)
Sent: Friday, November 08, 2013 3:11 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: 173.150(f)

Hi Carolyn,

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

Thanks,
Victoria

From: Gary Sanders [<mailto:gps.sanders@gmail.com>]
Sent: Friday, November 08, 2013 3:02 PM
To: PHMSA HM InfoCenter
Subject: 173.150(f)

Office of Hazardous Material Standard

November 8, 2013

Re: 173.150(f)

To whom it may concern,

I am requesting a written PHMSA interpretation regarding a specific set of circumstances under 173.150(f). The question pertains to materials that meet all four of the following criteria.

1. Flash Points between 100 F and 141 F
2. Marine Pollutants
3. Shipped in non-bulk containers
4. Shipped by motor vehicle or rail.

I have found many interpretations that address some combination of the criteria but not when all four are present. The closest and most recent interpretation is;

#04-0074: Thus, for transportation by highway or rail, a combustible liquid is not subject to the HMR when offered or transported in a non-bulk packaging, even if the combustible liquid also meets the definition for a marine pollutant.

However, this interpretation does not address flammable liquids that may be reclassified as combustible.

This combination of criteria is very common in many of the industries in which I have worked.

The questions are:

1. Are these materials subject to the HMR?

2. If they are, what are the requirements for shipment.

Thank you for your assistance.

Gary P. Sanders

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