



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 09 2016

Mr. Rick Burkhead
Roe Transportation Enterprises
3680 W. Michigan Ave.
Sidney, OH 45365

Reference No. 16-0162

Dear Mr. Burkhead:

This letter is in response to your October 3, 2016, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of "spent bentonite" (spent bleaching earth). Specifically, you seek guidance regarding special provisions B116 and B130 and if they apply to transporting "spent bentonite."

We have paraphrased and answered your questions as follows:

- Q1. You ask what the HMR requirements are for transporting "spent bentonite" and if a special permit is required.
- A1. A special permit is not necessary to transport "spent bentonite" when classified as a hazardous material. It is the understanding of this Office that this material may be classified as a Division 4.2 (Spontaneously Combustible Material) and described as "UN3088, Self-heating solid, organic, n.o.s., 4.2." All requirements for packaging and communicating the hazards of this material are based on this classification and description.
- Q2. You ask how special provisions B116 and B130 apply.
- A2. Special provisions B116 and B130 are assigned to "UN3088" material in Packing Group III. Specifically, B116 authorizes the use of non-specification packaging for "spent bleaching earth" and B130 excepts "diatomaceous earth filter" material from being fully subject to the HMR under certain conditions. Although the latter

material is similar to "spent bleaching earth" and they may be classified and described using the same hazardous material description, special provision B130 only applies to "diatomaceous earth filter" material. In order to be excepted from the HMR similar to special provision B130 or in the same manner as DOT-SP 12134 (as referenced in your email), a special permit would be necessary.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen", written in a cursive style.

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

Goodall, Shante CTR (PHMSA)

From: Rivera, Jordan CTR (PHMSA)
Sent: Monday, October 03, 2016 2:19 PM
To: Hazmat Interps
Subject: FW: Request for interpretation.

Baker
173-241,
Bulk Packaging
16-0162 O

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Burkhead spoke with Eamonn. The specialist to whom this letter is assigned should see Eamonn for clarification on Mr. Burkhead's question.

Please let me know if you have any questions.

Thanks,
Jordan

From: Rick Burkhead [<mailto:rick@roetransportation.com>]
Sent: Monday, October 03, 2016 1:48 PM
To: INFOCNTR (PHMSA)
Subject: FW: Request for interpretation.

From: Rick Burkhead [<mailto:rick@roetransportation.com>]
Sent: Monday, October 03, 2016 10:12 AM
To: 'infocntr@dot.gov'
Subject: Request for interpretation.

Sir,

We have a material called spent bentonite, or spent bleaching earth. DOT-SP 12134, UN3088. Please verify if we need a special permit to haul and utilize this material, or whatever actions we need to do and record to be safely within the Hazardous Materials Regulations. Also information please on Provisions B-116 and B-130.

Sincerely,

*Rick W. Burkhead Sr.
Roe Transportation Enterprises.*

*3680 W. Michigan Ave.
Sidney, Ohio. 45365*

*Office 937-497-7161
Fax 937-493-0766
Cell 937-638-2650*



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

East Building, PHH-30
1200 New Jersey Avenue, Southeast
Washington, D.C. 20590

DOT-SP 12134
(SIXTH REVISION)

(FOR RENEWAL, SEE 49 CFR § 107.109)

1. GRANTEE: (See individual authorization letter)
2. PURPOSE AND LIMITATION:
 - a. This special permit authorizes the offering for transportation, and transportation in commerce of spent bleaching earth as a Division 4.2, solid, PG III, exempt from the provisions of the Hazardous Materials Regulations (HMR) except as specifically stated herein. The most recent revision supersedes all previous revisions.
 - b. The safety analyses performed in development of this special permit only considered the hazards and risks associated with transportation in commerce.
 - c. Unless otherwise stated herein, this special permit consists of the special permit authorization letter issued to the grantee together with this document.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.
4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR Parts 171-180 except as specified herein.
5. BASIS: This special permit is based on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) editorial review under § 107.121 initiated on December 4, 2008.

June 25, 2010

6. HAZARDOUS MATERIALS (49 CFR § 172.101):

Hazardous Materials Description			
Proper Shipping Name	Hazard Class/ Division	Identification Number	Packing Group
Self-heating solid, organic, n.o.s. (spent bleaching earth)	4.2	UN3088	III

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Packagings prescribed are non-DOT specification, sift-proof dump or hopper-type vehicles, and sift-proof roll-on/roll-off bulk bins, which must be covered by a tarpaulin, metal cover, or equivalent means.

b. OPERATIONAL CONTROLS -

(1) The temperature of the spent bleaching earth at the time it is offered for transport and during transportation may not exceed 55°C (130°F). The elapsed time between offering of the material at the point of origin, and unloading at the destination, may not exceed 24 hours.

(2) Each driver of a vehicle transporting spent bleaching earth under terms of this special permit must be trained regarding the properties and hazards of spent bleaching earth, precautions to ensure safe transport of the material, and actions to be taken in the event of an emergency during transportation, or a substantial delay in transit.

(3) Shipping papers must be prepared for each shipment in accordance with §§ 172.200 - 172.205. Emergency response information as required by § 172.602(a)(2) through (7) is required to be provided on or with the shipping paper.

(5) Each vehicle operating under this special permit must be marked in conformance with § 172.302(a).

June 25, 2010

8. SPECIAL PROVISIONS:

a. A current copy of this special permit must be carried on each vehicle and maintained at each facility where the spent bleaching earth is offered for transportation.

b. Persons operating under the authority of this special permit must comply with the training requirements of subpart H of Part 172.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor vehicle.

10. MODAL REQUIREMENTS: Addressed in paragraph 7.b of this special permit.

11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this special permit and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq.

- o All terms and conditions prescribed in this special permit and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
- o Persons operating under the terms of this special permit must comply with the security plan requirement in Subpart I of Part 172 of the HMR, when applicable.
- o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8, who performs a function subject to this special permit must receive training on the requirements and conditions of this special permit in addition to the training required by §§ 172.700 through 172.704.

No person may use or apply this special permit, including display of its number, when this special permit has expired, or is otherwise no longer in effect.

Under Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—"The Hazardous Materials Safety and Security Reauthorization Act of 2005" (Pub. L. 109-59), 119 Stat. 1144 (August 10, 2005), amended the Federal hazardous materials transportation law by changing the term

June 25, 2010

"exemption" to "special permit" and authorizes a special permit to be granted up to two years for new special permits and up to four years for renewals.

12. REPORTING REQUIREMENTS: Shipments or operations conducted under this special permit are subject to the Hazardous Materials Incident Reporting requirements specified in 49 CFR §§ 171.15 - Immediate notice of certain hazardous materials incidents, and 171.16 - Detailed hazardous materials incident reports. In addition, the grantee(s) of this special permit must notify the Associate Administrator for Hazardous Materials Safety, in writing, of any incident involving a package, shipment or operation conducted under terms of this special permit.

Issued in Washington, D.C.:



for Dr. Magdy El-Sibaie
Associate Administrator for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation, East Building PHH-30, 1200 New Jersey Avenue, Southeast, Washington, D.C. 20590.

Copies of this special permit may be obtained by accessing the Hazardous Materials Safety Homepage at http://hazmat.dot.gov/sp_app/special_permits/spec_perm_index.htm Photo reproductions and legible reductions of this special permit are permitted. Any alteration of this special permit is prohibited.

PO: KFW/sln



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

June 1, 2009

East Building, PHH-30
1200 New Jersey Avenue S.E.
Washington, D.C. 20590

DOT-SP 14525
(THIRD REVISION)

(FOR RENEWAL, SEE 49 CFR § 107.109)

1. GRANTEE: (See individual authorization letter)
2. PURPOSE AND LIMITATION:
 - a. This special permit authorizes the transportation in commerce of certain used diatomaceous earth filter material not subject to the Hazardous Materials Regulations, except for shipping papers and certain marking requirements when transported by motor vehicle. This special permit provides no relief from the Hazardous Materials Regulations (HMR) other than as specifically stated herein. The most recent revision supersedes all previous revisions.
 - b. The safety analyses performed in the development of this special permit only considered the hazards and risks associated with the transportation in commerce.
 - c. Unless otherwise stated herein, this special permit consists of the special permit authorization letter issued to the grantee together with this document.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.
4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR Parts 171-180 except shipping papers and marking requirements as provided herein.
5. BASIS: This special permit is based on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) editorial review under § 107.121 initiated on December 4, 2008.

June 1, 2009

6. HAZARDOUS MATERIALS (49 CFR § 172.101):

Hazardous Materials Description			
Proper Shipping Name	Hazard Class/ Division	Identification Number	Packing Group
Self-heating, solid, organic, n.o.s.	4.2	UN3088	III

7. SAFETY CONTROL MEASURES:

a. PACKAGING - Packagings prescribed are non-DOT specification, sift-proof motor vehicles and sift-proof roll-on/roll-off bulk bins, which must be covered by a tarpaulin, metal cover, or equivalent means.

b. OPERATIONAL CONTROLS -

(1) The temperature of the diatomaceous earth filter material at the time it is offered for transport and during transportation may not exceed 55°C (130°F). The elapsed time between offering of the material at the point of origin, and unloading at the destination, may not exceed 48 hours.

(2) Each driver of a vehicle transporting hazardous materials under terms of this special permit must be trained regarding the properties and hazards of diatomaceous earth filter material, precautions to ensure safe transport of the material, and actions to be taken in the event of an emergency during transportation, or a substantial delay in transit.

(3) Shipping papers must be prepared for each shipment in accordance with §§ 172.200 - 172.205. Emergency response information as required by § 172.602(a)(2) through (7) is required to be provided on or with the shipping paper.

(4) Each vehicle operating under this special permit must be marked in conformance with § 172.302(a).

June 1, 2009

8. SPECIAL PROVISIONS:

a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package and it is reoffered for transportation in conformance with this special permit and the HMR.

b. A current copy of this special permit must be maintained at each facility where the package is offered or reoffered for transportation.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor Vehicle.

10. MODAL REQUIREMENTS: A current copy of this special permit must be carried aboard each motor vehicle used to transport packages covered by this special permit.

11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this special permit and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq:

- o All terms and conditions prescribed in this special permit and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
- o Persons operating under the terms of this special permit must comply with the security plan requirement in Subpart I of Part 172 of the HMR, when applicable.
- o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8, who performs a function subject to this special permit must receive training on the requirements and conditions of this special permit in addition to the training required by §§ 172.700 through 172.704.

No person may use or apply this special permit, including display of its number, when this special permit has expired or is otherwise no longer in effect.

June 1, 2009

Under Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—"The Hazardous Materials Safety and Security Reauthorization Act of 2005" (Pub. L. 109-59), 119 Stat. 1144 (August 10, 2005), amended the Federal hazardous materials transportation law by changing the term "exemption" to "special permit" and authorizes a special permit to be granted up to two years for new special permits and up to four years for renewals.

12. REPORTING REQUIREMENTS: Shipments or operations conducted under this special permit are subject to the Hazardous Materials Incident Reporting requirements specified in 49 CFR 171.15 - Immediate notice of certain hazardous materials incidents, and 171.16 - Detailed hazardous materials incident reports. In addition, the grantee(s) of this special permit must notify the Associate Administrator for Hazardous Materials Safety, in writing, of any incident involving a package, shipment or operation conducted under terms of this special permit.

Issued in Washington, D.C.:

Diane LaValle

for Theodore L. Willke

Associate Administrator for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation, East Building PHH-30, 1200 New Jersey Avenue, Southeast, Washington, D.C. 20590.

Copies of this special permit may be obtained by accessing the Hazardous Materials Safety Homepage at http://hazmat.dot.gov/sp_app/special_permits/spec_perm_index.htm. Photo reproductions and legible reductions of this special permit are permitted. Any alteration of this special permit is prohibited.

PO: AM