



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

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

APR 08 2011

Mr. Bill Sirull  
Chief, Enforcement Support Branch  
Business Compliance Division  
Bureau of Waste Prevention  
Massachusetts Department of Environmental Protection  
One Winter Street, 7<sup>th</sup> Floor  
Boston, MA 02108

Reference No. 10-0059

Dear Mr. Sirull:

This is in response to your e-mail to the Pipeline and Hazardous Materials Safety Administration's Hazardous Materials Information Center requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your e-mail, you ask for confirmation that the transportation of virgin mineral spirits, such as "NA 1993, Combustible liquid, n.o.s. (petroleum naphtha), Combustible liquid, Packing Group (PG) III," in non-bulk packages that typically have a capacity of 50 gallons or less, is not regulated under the HMR. You state that the product: has a flash point between 140 °F and 200 °F, contains cleaner solvents when shipped from the receiver back to the manufacturer, is not regulated under the HMR or the Environmental Protection Agency, and is a state-regulated waste. We apologize for the delay in responding and any inconvenience this may have caused.

Under the HMR, a waste that is subject to the Uniform Hazardous Waste Manifest (UHWM) Requirements of the U. S. Environmental Protection Agency specified in 40 CFR Part 262 is regulated for purposes of transportation as a "hazardous waste." A waste that does not require completion of a UHWM is not considered a "hazardous waste" for purposes of transportation and is not subject to the requirements of the HMR, unless it meets the definition of a hazardous material under the HMR. Thus, a State-regulated waste that does not require completion of a UHWM and is not a hazardous material as defined in the HMR is not subject to the regulations under the HMR. Such a material may be described using the shipping name, "State Regulated Petroleum Naptha Waste." However, its description on the shipping paper or manifest may not include a hazard class or identification number specified in the § 172.101 Hazardous Materials Table (see § 172.202(e)).

A "combustible liquid" is defined as a material that has a flash point above 60 °C (140 °F) and below 93 °C (200 °F) and does not meet the definition of any other hazard class under the HMR (see § 173.120(b)(1)). A combustible liquid, that is not a hazardous substance, hazardous waste, or a marine pollutant and is packaged in a non-bulk packaging, i.e., a packaging having a liquid capacity

of 450 L (119 gallons) or less, is not subject to any other requirements under the HMR (see § 173.150(f)(2)). Therefore, the material you described may be shipped using a Massachusetts Department of Environmental Protection State-specific shipping paper.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and is positioned to the left of the typed name.

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

**Drakeford, Carolyn (PHMSA)**

Edmonson  
\$ 172.101  
\$ 172.202

**From:** INFOCNTR (PHMSA)  
**Sent:** Tuesday, March 09, 2010 2:57 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Request for formal Letter of Interpretation

Shipping papers

10-0059

**From:** Sirull, William (DEP) [mailto:William.Sirull@state.ma.us]  
**Sent:** Tuesday, March 09, 2010 2:12 PM  
**To:** PHMSA HM InfoCenter  
**Subject:** FW: Request for formal Letter of Interpretation

Dear Sir/Madam:

Could the Hazardous Materials Information Center please forward the following request for a formal Letter of Interpretation to PHMSA -OHMS for a written response:

A transportation company provides virgin mineral spirits (petroleum naphtha) (flash point between 140 degrees and 200 degrees Fahrenheit) to its customers in Massachusetts and in return collects the waste mineral spirits after it has been used to clean metal parts, become spent and needs to be reclaimed. The virgin mineral spirits and the waste mineral spirits are transported in non-bulk packaging, typically in containers of less than 50 gallons. The company's Material Safety Data Sheet (MSDS) for the virgin mineral spirits in the section for Transport Information reads:

DOT Non-Bulk Package (< 119G container)

Shipping Name: Mineral Spirits (Petroleum Naphtha)(Not DOT regulated)

DOT Bulk Package (>119 G container)

Shipping Name: Combustible liquid, n.o.s. (petroleum naphtha)

UN/NA #: NA 1993

Hazard Class: Combustible Liquid

Packaging Group: III

Placards: Class 3, NA 1993

To ship the mineral spirits in non-bulk packaging, the transportation company uses the following description on the shipping paper accompanying the transport of the waste mineral spirits:

Non-DOT/RCRA Regulated Used Parts Cleaner Solvent (< 119 G cont), (Naphtha)

Given what the company states in the MSDS for the virgin mineral spirits and on the shipping paper for the waste mineral spirits, it is MassDEP's understanding that shipments of the mineral spirits, both virgin and waste, in non-bulk packaging are NOT USDOT-regulated. Therefore, MassDEP is requesting a Letter of Interpretation regarding whether MassDEP can prescribe a State-specific shipping paper to accompany shipments of waste mineral spirits in Mass. collected in non-bulk packaging by the transportation company? The State-specific shipping paper would typically be signed by a consignee in another State. The waste mineral spirits is a Massachusetts-regulated hazardous waste (waste oil) but it is not regulated under the USEPA RCRA (Resource Conservation and Recovery Act) hazardous waste program.

If there are any questions about this request, please contact me as directed below.

Thank you for your assistance with this matter.

Bill Sirull

Chief, Enforcement Support Branch

Business Compliance Division

Bureau of Waste Prevention

Massachusetts Department of Environmental Protection (MassDEP)

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