



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

DEC 22 2008

1200 New Jersey Ave., SE
Washington, DC 20590

Mr. Michael T. Shamulka
Momentive Performance Materials
260 Hudson River Road
Waterford, NY 12188

Ref. No. 08-0284

Dear Mr. Shamulka:

This responds to your October 7, 2008 letter requesting clarification of the requirements for non-bulk quantities of flammable liquids under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification related to non-bulk quantities of flammable liquids that do not sustain combustion in accordance with testing procedures in Appendix H of Part 173.

You indicate the flammable liquids are not intentionally heated and do not meet the definition of any other hazard class. Your questions are paraphrased as follows:

Q1. If a liquid with a flash point of not more than 60 °C does not sustain combustion, may a shipper still classify, mark, label, and transport the material as a flammable liquid.

A1. No. A liquid with a flashpoint greater than 35 °C (95 °F) that does not sustain combustion according to ASTM D 4206 or the procedure in Appendix H of Part 173 does not meet the definition of a Class 3 flammable liquid (§ 173.120(a)(3)). No person may, by marking or otherwise, represent that a hazardous material is present in a package if the hazardous material is not present (§ 171.2(k)). Therefore, a liquid with a flash point greater than 35 °C that does not sustain combustion may not be classed, marked, labeled, and transported as a Class 3 flammable liquid. A liquid with a flashpoint at or below 35 °C that does not sustain combustion is defined as a flammable liquid and therefore, must be classed, marked, labeled, and transported as a flammable liquid.

Q2. Is a 55-gallon drum of a liquid with a flash point of 42 °C (107 °F) that does not sustain combustion subject to the HMR when transported internationally by aircraft if the liquid may be exposed to temperatures at or above its flash point while in transportation?

A2. No. A liquid with a flashpoint greater than 35 °C (95 °F) that does not sustain combustion according to ASTM D 4206 or the procedure in Appendix H of Part 173 does

not meet the definition of a flammable liquid (§ 173.120(a)(3)) and, therefore, is not subject to the HMR.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,

Charles E. Betts,
Chief, Standards Development
Office of Hazardous Materials Standards



Der Kinderen
§173.120(a)
Definitions
08-0284

October 07, 2008

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10, U.S. Department of Transportation
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

To Whom It May Concern:

Our Company produces a number of products that meet the U.S. DOT criteria for a "flammable liquid" in Title 49 CFR §173.120(a). Our test results on some of these products indicate they do not sustain combustion according to the procedure in Appendix H of part 173 in Title 49 C.F.R. I am requesting a Letter of Interpretation answering the following questions for non-bulk packages of flammable liquids that do not sustain combustion per the procedures in Appendix H of part 173, are not intentionally heated and do not meet the definition of any other Hazard Class:

1. If a liquid with a flash point of not more than 60° C does not sustain combustion, may a shipper still classify, mark, label and ship such liquid as a flammable liquid under U.S. requirements for hazardous materials transportation?
2. Is a 55 Gallon Drum of a liquid with a flash point of 107° F that does not sustain combustion subject to U.S. hazardous materials transportation requirements when shipped internationally by aircraft, if it could be subject to temperatures at or above its flash point?

Feel free to contact me if you have any questions.

Thank you for your effort and cooperation in addressing these questions.

Sincerely,

A handwritten signature in black ink that reads "Michael T. Shamulka".

Michael T. Shamulka
Supply Chain Regulatory Leader