



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

DEC 09 2015

Ms. Christina Kurtz  
Manager of Regulations and Packaging  
Health, Environment, and Safety  
Arkema  
900 First Avenue, Building #2  
King of Prussia, PA 19406

Reference No. 15-0201

Dear Ms. Kurtz:

This responds to your October 8, 2015 email concerning a final rule under Docket No. PHMSA-2012-0082; HM-251 (80 FR 26643). Specifically, you request confirmation that the requirements adopted in this final rule do not apply to materials with a subsidiary hazard of Class 3 flammable liquid.

Your understanding is correct. On May 8, 2015, the Pipeline and Hazardous Materials Safety Administration, in coordination with the Federal Railroad Administration, issued a final rule, entitled "Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains." In the rule, PHMSA adopted enhanced tank car standards and operational controls for high-hazard flammable trains. As used in the final rule, Class 3 refers to the primary hazard or hazard class of the material as indicated in Column (3) of the Hazardous Materials Table in 49 CFR 172.101.

I trust this satisfies your inquiry. Please feel free to contact me if you need further assistance.

Sincerely,

Ben Supko  
Senior Regulations Officer  
Standards and Rulemaking Division

Antonelli  
172.101  
Definition

15-0201

**Goodall, Shante CTR (PHMSA)**

**From:** Supko, Ben (PHMSA)  
**Sent:** Thursday, October 08, 2015 11:02 AM  
**To:** Goodall, Shante CTR (PHMSA)  
**Subject:** FW: HM-251 and subsidiary flammable  
**Attachments:** FW: PHMSA's High-Hazard Flammable Train Rule Announcement

Shante,

Good morning. Please log this in as a request for interpretation. I have also attached some language that can be used by the assigned specialist to craft a response.

Ben

**From:** Christina KURTZ [<mailto:christina.kurtz@arkema.com>]  
**Sent:** Thursday, October 08, 2015 10:38 AM  
**To:** Supko, Ben (PHMSA)  
**Cc:** Martin THOMAS  
**Subject:** HM-251 and subsidiary flammable

Ben,

If you recall, when we met at the CPC meeting we discussed the definition of flammables pertaining to HM-251.

Dr. El Sibaie stated that subsidiary flammables were not included in this docket. He also stated in discussions with Canada, they were in agreement that flammables only pertains to the primary hazard as listed in column 3 of 172.101 table.

Can you please provide confirmation in writing via email and/or a formal interpretation?

Regards,

**Christina KURTZ**

Manager of Regulations and Packaging  
Health, Environment, and Safety  
610-205-7417



900 First Ave.  
Building #2  
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USA  
[christina.kurtz@arkema.com](mailto:christina.kurtz@arkema.com)

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**Goodall, Shante CTR (PHMSA)**

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**From:** Supko, Ben (PHMSA)  
**Sent:** Wednesday, May 20, 2015 6:07 AM  
**To:** Schoonover, William (PHMSA)  
**Subject:** FW: PHMSA's High-Hazard Flammable Train Rule Announcement

Bill,

Here was my response to you regarding the Doug James Inquiry.

Ben

Ben Supko  
Acting Deputy Associate Administrator  
Policy and Programs  
Pipeline and Hazardous Materials Safety Administration  
202-366-0374  
ben.supko@dot.gov

-----Original Message-----

**From:** Supko, Ben (PHMSA)  
**Sent:** Friday, May 08, 2015 05:38 AM Eastern Standard Time  
**To:** Schoonover, William (PHMSA)  
**Subject:** RE: PHMSA's High-Hazard Flammable Train Rule Announcement

Bill,

We were focused on materials Classed as flammable liquids and shipped in high-hazard flammable trains. The term "Class" refers to the primary hazard or hazard class of the material (column 3 of HMT).

Ben

Ben Supko  
Acting Deputy Associate Administrator  
Policy and Programs  
Pipeline and Hazardous Materials Safety Administration  
202-366-0374  
ben.supko@dot.gov

-----Original Message-----

**From:** Schoonover, William (PHMSA)  
**Sent:** Thursday, May 07, 2015 09:28 PM Eastern Standard Time

**To:** Supko, Ben (PHMSA)  
**Subject:** FW: PHMSA's High-Hazard Flammable Train Rule Announcement

Sent with Good (www.good.com)

-----Original Message-----

**From:** James, Doug (D) [[jamesdd@dow.com](mailto:jamesdd@dow.com)]  
**Sent:** Thursday, May 07, 2015 05:39 PM Eastern Standard Time  
**To:** Butters, Tim (PHMSA); Schoonover, William (PHMSA)  
**Cc:** Burke, Cherry (C)  
**Subject:** RE: PHMSA's High-Hazard Flammable Train Rule Announcement

Tim, Bill,

An example for my question below would be UN2789, Acetic acid, glacial or Acetic acid solution, Hazard class 8 (3), PG II.

We asked the same question of Mr. Ben Turcotte, Transport's Director of Regulatory Affairs, with regards to the Transport Canada amendment and answer was that subsidiary hazard class of 3 would not apply to their Regulations Amending the Transportation of Dangerous Goods Regulations (TC 117 Tank Cars. See attached email.

Thanks and regards,

**Doug James**

Transportation Regulatory Compliance & Risk Management  
-Distribution Risk Management Leader  
-Rail Mode EHS Leader  
The Dow Chemical Company  
5500 Dow Center  
P.O. Box 111  
Wichita, KS 67207  
Office phone: 913-737-4620  
Cell phone: 978-258-0709

**From:** [tim.butters@dot.gov](mailto:tim.butters@dot.gov) [<mailto:tim.butters@dot.gov>]  
**Sent:** Monday, May 04, 2015 10:51 AM  
**To:** James, Doug (D)  
**Cc:** Burke, Cherry (C); [william.schoonover@dot.gov](mailto:william.schoonover@dot.gov)  
**Subject:** RE: PHMSA's High-Hazard Flammable Train Rule Announcement

Doug,

I have forwarded to Bill Schoonover, who will have on of our hazmat folks follow up with you.

Timothy P. Butters  
Deputy Administrator  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
202-366-4433

**From:** James, Doug (D) [<mailto:jamesdd@dow.com>]  
**Sent:** Monday, May 04, 2015 10:57  
**To:** Butters, Tim (PHMSA)

**Cc:** Burke, Cherry (C)

**Subject:** FW: PHMSA's High-Hazard Flammable Train Rule Announcement

Hello Tim,

I work with Cherry Burke for Dow Rail Safety and I did attend your stakeholder call last Friday. I have a question – would this rule apply for materials shipped by rail that have a Secondary Hazard Class = 3 (flammable liquid), but a different Primary Hazard Class? I think this question has been raised before but I was just looking for confirmation either way.

Thanks and regards,

**Doug James**

Transportation Regulatory Compliance & Risk Management

-Distribution Risk Management Leader

-Rail Mode EHS Leader

The Dow Chemical Company

355 Hwy 3142

Stdg 533, Rm 144

Tarr, LA 70057

Office phone: 855-763-4638

Cell phone: 978-299-9700

**From:** Burke, Cherry (C)

**Sent:** Friday, May 01, 2015 8:51 AM

**To:** Heater, John L (J); James, Doug (D)

**Subject:** FW: PHMSA's High-Hazard Flammable Train Rule Announcement

Note Tim Butter's open stakeholder call at 1EDT. I won't be able to make it.

**From:** Lepik, Donna [<mailto:Donna.Lepik@americanchemistry.com>]

**Sent:** Friday, May 01, 2015 9:49 AM

**To:** Ms. Donna Lepik

**Subject:** Fwd: PHMSA's High-Hazard Flammable Train Rule Announcement

FYI/see below - in case you're interested.

Donna L. Lepik

American Chemistry Council

CHEMTREC®/TRANSCAER®

700 2nd Street NE Suite 913

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P: 202.249.6723

C: 571.225.8877

[dleplik@chemtrec.com](mailto:dleplik@chemtrec.com)

[dleplik@transcaer.com](mailto:dleplik@transcaer.com)

Begin forwarded message:

**From:** <[tim.butters@dot.gov](mailto:tim.butters@dot.gov)>

**Date:** May 1, 2015 at 7:31:06 AM CDT

**To:** Undisclosed recipients;;

**Subject:** PHMSA's High-Hazard Flammable Train Rule Announcement

Knowing of your strong interest in the flammable liquid rail safety rulemaking that has been underway, I wanted to let you know that today at 10:30 a.m. (EST), Transportation Secretary Anthony Foxx and Canada's Minister of Transport Lisa Raitt will hold a press conference to

announce the comprehensive rail safety regulation, which includes the requirements for stronger, safer rail tank cars for the transportation of flammable liquids in North America, new rail operational requirements, and other provisions. Secretary Foxx and Minister Raitt will address the aspects of both DOT's final rule and Canada's regulations. The press conference will be streamed live online [here](#).

Following that announcement, I will host an open stakeholder conference call at 1:00 p.m. (EST) to personally answer any questions you may have about the operational and safety improvements that will be announced. I invite you to call in.

**When: Friday, May 1, 1:00pm (EST)**

**Teleconference #: 1-877-336-1839**

**Access Code: 8170541**

Sincerely,

Timothy P. Butters  
Administrator (Acting)  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
202-366-4433

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