



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

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

OCT 26 2010

Mr. Eric Barcaskey
Manager, Hazmat Transportation Safety
Valspar
P.O. Box 1461
Minneapolis, MN 55440

Reference No. 09-0093

Dear Mr. Barcaskey:

This is in response to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to combustible liquids. Specifically, you ask how to properly describe "UN 1263, Paint, 3 (flammable liquid), PG III" with a flash point of 49 °C (120 °F) when it is has been reclassified as a combustible liquid and placed in either a non-bulk or bulk packaging. We apologize for the delay in responding to your letter and any inconvenience this may have caused.

Q1. May a paint product with a flash point of 120 °F in a bulk packaging be described as "UN 1263, Paint, Combustible liquid, PG III"?

A1. Yes, provided the paint does not meet the definition of any another hazard class. According to the provisions of 49 CFR 172.101(d) (4), Class 3 entries in the Hazardous Materials Table are modified to read "Combustible liquid" when that material is reclassified in accordance with § 173.150(e) or (f) or has a flash point above point above 60 °C (140 °F) but below 93 °C (200 °F). Section 173.150(f)(1) permits a flammable liquid with a flash point at or above 38°C (100 °F) that does not meet the definition of any other hazard class to be reclassified as a combustible liquid in domestic transportation. (See also § 173.120(b)(2).) Please note, this provision does not apply to transportation by vessel or aircraft, except where other means of transportation is impracticable. Combustible liquids in bulk packagings, and combustible liquids that are hazardous substances, hazardous wastes, or marine pollutants must also comply with requirements for hazard communication, incident reporting, packaging, training, and emergency response information. (See § 173.150(f)(3).)

Q2. May a paint product in a non-bulk packaging with a flash point of 120 °F that contains a hazardous substance in an amount that exceeds its reportable quantity be described as "UN 1263, Paint, Combustible liquid, PG III, RQ (with the name of the hazardous substance(s) in parentheses)"?

A2. Yes. As specified in § 172.203(c)(1), if the proper shipping name for a material that is a hazardous substance does not identify the hazardous substance by name, the name of the hazardous substance must be entered in parentheses in association with the basic description.

This may be accomplished by placing the name of the hazardous substance either immediately following the proper shipping name or the basic description. If a material contains two or more hazardous substances, at least two hazardous substances, including the two with the lowest reportable quantities (RQs), must be identified. Further, § 172.203(c)(2) requires a hazardous material that meets the definition of a hazardous substance, defined in § 171.8, to have the letters "RQ" appear before or after the basic shipping description on a shipping paper to denote the package contains a reportable quantity of this material.

- Q3. Is the package containing the combustible liquid paint product described in Question Q2 permitted, required, or forbidden to be labeled with a FLAMMABLE LIQUID label conforming to § 172.419? Can this label be used without the "FLAMMABLE LIQUID" text?
- A3. Liquid paint with a flash point of 60 °C (140 °F) or less that is described as a Class 3 flammable liquid must be labeled with a FLAMMABLE LIQUID label conforming to § 172.419. Liquid paint with a flash point at or above 38 °C (100 °F) but not exceeding 60 °C (140 °F), such as the paint you described with a flash point of 120 °F, that does not meet the definition of any other hazard class and is reclassified as a combustible liquid must not be labeled with a FLAMMABLE LIQUID label, regardless of whether or not text indicating the hazard class is included on the label (see § 173.120(b)(2)). For your information, the HMR do not require text indicating the FLAMMABLE LIQUID hazard class on a primary or subsidiary label (see § 172.405(a)). Although the HMR do not prescribe a label for the combustible liquid hazard class, they do prescribe a placard for COMBUSTIBLE LIQUID (see the § 172.400(b) table and § 172.544), and permit a FLAMMABLE LIQUID placard to be used in place of a COMBUSTIBLE LIQUID placard on a bulk package that contains a combustible liquid (see § 172.504(f)(2)).

On April 5, 2010, PHMSA published an advance notice of proposed rulemaking (ANPRM; Docket No. PHMSA-2009-0241 (HM-242) copy enclosed), titled "Hazardous Materials Regulations: Combustible Liquids," in the Federal Register [75 FR 17111] soliciting comments on ways to revise, clarify, or relax certain regulatory requirements for combustible liquids. Although the comment period closed on July 6, 2010, we encourage you to submit your comments on this matter. To view the rulemaking electronically, please visit the website "www.regulations.gov," and search using the last four digits of the rulemaking's docket number, "0241," and further refine your search results with this agency's acronym "PHMSA."

I hope this satisfies your request.

Sincerely,



T. Glenn Foster
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Enclosure

valspar

PO Box 1461
Minneapolis, MN 55440

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\$173.150(f)

\$172.101

Shipping Name

09-0093

April 9, 2009

US DOT PHMSA
Office of Hazardous Materials Standards, PHH-10
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Combustible liquid applicability

Dear Mr. Mazzullo,

49CFR §173.120(b)(2) permits an otherwise flammable liquid to be "...reclassified as a combustible liquid." with further criteria referenced both in this subparagraph, and in §173.150(f). Please advise whether the following are correct applications, with corrections as appropriate:

1) A paint product in bulk packaging with flashpoint of 120°F;

UN1263, Paint, Class Combustible liquid, PG III

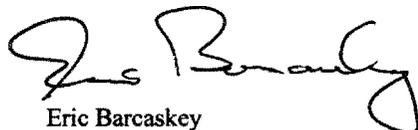
2) A paint product in non-bulk packaging with flashpoint of 120°F, and containing a hazardous substance above its reportable quantity;

UN1263, Paint, Class Combustible liquid, PG III
RQ (Listed hazardous substance)

3) Whether use of a Flammable Liquid label (§172.419, with or without text) is permissible, required or forbidden in instance 2) above.

We have experienced recent carrier and state enforcement questions on the above and assure your office that a written interpretation is of great interest. Thank you in advance for your reply.

Sincerely,



Eric Barcaskey
Manager, Hazmat Transport Safety

Phone (612) 851-7930
ebarcaskey@valspar.com