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# Transportation/Hazardous Materials: Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Explosives Classification

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The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in an October 15th interpretive letter clarification of the Hazardous Material Regulation (“HMR”) pertaining to the classification of explosives.

The letter clarifies a previously issued letter of interpretation.

Clean Harbors Environmental Services, Inc. (“Clean Harbors”) asked in correspondence to PHMSA when approval is needed for:

. . . a waste stream containing a small amount of a Class 1 (explosive) material.

The company also asked whether there is a threshold upon which an assumption may be made by the shipper that the material meets the definition of another hazard class or does not meet the definition of a hazardous material.

Clean Harbors provides two scenarios:

1. . . . a customer manufactures Trinitrotrimethylenetriamine (RDX) by incorporating the material into a solution of isopropanol and water in order to regulate the particle size. The explosive material is then removed from the isopropanol/water/RDX solution in a rotary evaporation procedure. The resultant waste material consists of a solution that contains 4.5% water, 93.7% isopropanol, 1.73% bis(ethylhexyl) adipate (a non- DOT regulated plasticizer), .07% RDX and a non-detectable amount of cyclotetramethylenetetramine (HMX).
2. . . . a remediation project is conducted in which contaminated soils that contain trace amounts of RDX and/or HMX are excavated for disposal at a licensed waste management facility.

PHMSA addresses these scenarios by discussing the definitions of “new explosive” and “formulation.”

It notes that “all new compositions containing any amount of explosive material must be classified and approved by DOT, including compositions of diluted (desensitized) explosives or explosives combined or contaminated with other materials.”

The agency states by way of clarification that:

. . . determination of a “new explosive” is not limited to an increase in sensitivity nor limited to a change in formulation only, but rather any change in formulation, design, or process must be examined to determine whether the change altered any of the properties of the explosive. [Emphasis added].

PHMSA reiterated that:

. . . all changes must be examined to determine whether the properties have been altered. . . and that this may not be self-determined but must be determined in accordance with § 173.56(b).

The agency states that it views explosives mixed with filters, rags, dirt, or other material to be transported as waste, as a “new explosive.”

Finally, § 173.56(i) is cited for the proposition that if:

Experience or other data indicate that the hazard of a material or a device containing an explosive composition is greater or less than indicated according to the definition and criteria specified in §§ 173.50, 173.56, and 173.58, the Associate Administrator may specify a classification or except the material or device from the requirement of the HMR.

A copy of the October 15th letter can be downloaded [here](#).