

Amend Title 22, division 4.5, chapter 11, section 66261.21 of the California Code of Regulations as follows:

566261.21. Characteristic of Ignitability.

(a) A waste exhibits the characteristic of ignitability if representative samples of the waste have any of the following properties:

(1) it is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80 (incorporated by reference, see section 66260.11), or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78 (incorporated by reference, see section 66260.11), or as determined by an equivalent test method approved by the Department pursuant to section 66260.21.

(2) it is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

~~(3) it is an ignitable compressed gas as defined in 49 CFR section 173.300 (as amended September 30, 1982) and as determined by the test methods described in that regulation or equivalent test methods approved by the Department pursuant to section 66260.21;~~

(3) It is an ignitable compressed gas.

(A) The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 °F or, regardless of the pressure at 70 °F, having an absolute pressure exceeding 104 p.s.i. at 130 °F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 °F as determined by ASTM Test D-323.

(B) A compressed gas shall be characterized as ignitable if any one of the following occurs:

(1.) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2) or equivalent test methods approved by the Department pursuant to section 66260.21.

(2.) Using the Bureau of Explosives' Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully. Or, the flame flashes back and burns at the valve with any degree of valve opening.

(3.) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(4.) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

~~(4) it is an oxidizer as defined in 49 CFR section 173.151 (as amended May 31, 1979).~~

(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4).

(A) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(1.) The material meets the definition of a Class A explosive or a Class B explosive, as defined in §66261.23(a)(8), in which case it must be classed as an explosive.

(2.) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21.

(3.) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(4.) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

(b) A hazardous waste that exhibits the characteristic of ignitability has the EPA Hazardous Waste Number of D001.

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in §173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.

Note: Authority cited: Sections 208, 25141 and 25159, Health and Safety Code. Reference: Sections 25117