



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 22 2016

Mr. Andy Altemos
HMT Associates, L.L.C.
6416 Grovedale Drive
Suite 202B
Alexandria, VA 22310

Reference No. 16-0107

Dear Mr. Altemos:

This letter is in response to your June 17, 2016 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the relationship between certain entries in the Organic Peroxide Intermediate Bulk Container (IBC) Table in § 173.225(e) and the primary Organic Peroxides Table in § 173.255(c). Your question relates to the material "Peroxyacetic acid with not more than 26% hydrogen peroxide" meeting the criteria for classification as a type F organic peroxide.

Specifically, you seek confirmation of your understanding that any peroxyacetic acid formulation with not more than 26% hydrogen peroxide may be transported in IBCs without the need for an approval and without regard to the concentration of peroxyacetic acid, provided the formulation has been determined by appropriate testing to meet the criteria for classification as a type F organic peroxide.

Although the current HMR does not limit the concentration of peroxyacetic acid meeting certain requirements when packaged in IBCs, this was not the Pipeline and Hazardous Material Safety Administration's (PHMSA) original intention. A transcription error occurred when the Organic Peroxide IBC Table was adopted into the HMR under a Final Rule entitled, Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions [68 FR 44991]. It was our intention for the listing "Peroxyacetic acid with not more than 26% hydrogen peroxide" found in § 173.225(e) to read "Peroxyacetic acid, not more than 17%, with not more than 26% hydrogen peroxide." PHMSA will work to correct this drafting error in a future rulemaking.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

Andrews
173.225(e)
Packaging requirements Organic Peroxides
16-0107

From: Betts, Charles (PHMSA)
Sent: Friday, June 17, 2016 1:16 PM
To: Hazmat Interps
Subject: FW: Request for interpretation
Attachments: Request for interpretation of organic peroxides IBC table.pdf

Shante/Alice –

Please log and assign for response.

Thanks,
Charles

From: Altemos, Edward A. [<mailto:eaaltemos@pipeline.com>]
Sent: Friday, June 17, 2016 1:12 PM
To: Betts, Charles (PHMSA)
Subject: Request for interpretation

Hello Charles,

Long time no see – I hope all is well with you.

Please find attached a request for an interpretation relating to the Organic Peroxides IBC Table in §173.225(f) of the HMR. I look forward to receiving your thoughts on this matter in due course.

Thanks, and best regards,

Andy

HMT ASSOCIATES, L.L.C.

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June 17, 2016

Mr. Charles Betts
Director, Standards and
Rulemaking (PHH-10)
Pipeline and Hazardous Materials
Safety Administration
Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, D.C. 20590

Dear Mr. Betts:

This is to request an interpretation regarding to the relationship between certain entries in the “Organic Peroxide IBC Table” in §173.225(e) of the Department’s Hazardous Materials Regulations (49 CFR Parts 171-180, “the HMR”) and those in the “main” Organic Peroxides Table in §173.225(c) of the HMR in the case where there is some variance between the entries as listed in each for a particular organic peroxide. My specific interest in this connection – although there are other entries that could be cited - relates to “Peroxyacetic acid with not more than 26% hydrogen peroxide,” meeting the criteria for classification as a type F organic peroxide.

The entry “Peroxyacetic acid with not more than 26% hydrogen peroxide” appears in the Organic Peroxide IBC Table under the UN No. 3109 (“Organic peroxide, type F, liquid,” and formulations meeting this description are allowed in certain types of IBCs with certain maximum capacities. The entry does not prescribe any limitation on the concentration of peroxyacetic acid, although clearly only formulations meeting the classification criteria for a type F organic peroxide could fall under the entry. On the other hand, in the “main” Organic Peroxides Table listing all formulations authorized for transportation without approval, the entry for “Peroxyacetic acid or peracetic acid [with not more than 26% hydrogen peroxide]” which is assigned UN3109 (i.e., type F, liquid) further indicates a limit on the acetic acid concentration of not more than 17 percent by

AMT ASSOCIATES, L.L.C.

Mr. Charles Betts
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mass. Thus, the “main” Organic Peroxides Table applies a constraint on the type F entry for peroxyacetic acid with not more than 26% hydrogen peroxide that is not specified under the corresponding entry in the Organic Peroxide IBC Table. Importantly in this connection, the introductory text to the Organic Peroxide IBC Table in §173.225(e) clearly states: “The following Organic Peroxide IBC Table specifies, by technical name, those organic peroxides that are authorized for transportation in certain IBC and not subject to the approval provisions of §173.128 of this part” (emphasis added).

Against that background, it would be my understanding that any peroxyacetic acid formulation with not more than 26% hydrogen may be transported in IBCs without the need for an approval and without regard to the concentration of peroxyacetic acid, provided the formulation has been determined by appropriate testing to meet the criteria for classification as a type F organic peroxide. Consequently, the 17% peroxyacetic acid limitation as prescribed in the “main” Organic Peroxides Table is not applicable in this case. However, your confirmation of this understanding would be most appreciated.

Your consideration of this request is most appreciated. Please do not hesitate to contact me if you have questions concerning this request or if you require additional information or clarification.

Sincerely,

E. A. Altemos