



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

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 11 2009

Ms. Michele L. Frozena
Lead Environmental Scientist
Foth Infrastructure & Environment, LLC
2737 South Ridge Road, Suite 600
P.O. Box 12326
Green Bay, WI 54307-2326

Ref. No. 09-0251

Dear Ms. Frozena:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) with regard to classification criteria and the use of specification packaging for a material not subject to the HMR. Your questions are paraphrased and answered as follows:

Q1. Under § 173.150(e)(2), is an aqueous solution of alcohol containing 24 percent or less alcohol by volume, 50 percent or more water, and no other hazardous material subject to the HMR?

A1. No.

Q2. Is it permissible to use a UN standard Intermediate Bulk Container (IBC) to package a material not subject to the HMR? If so, under what conditions is it permissible?

A2. Yes, a UN standard packaging may be used to package a material not subject to the HMR. However, under § 171.2(g), no person may represent or offer a packaging as meeting the requirements of the HMR unless the packaging is maintained, marked and retested in accordance with the applicable requirements of the HMR. These requirements are applicable whether or not the packaging is used for the transportation of a hazardous material. Therefore, if the IBC is not maintained in accordance with the HMR, we recommend you securely cover any identifying marks or specification plates representing it as such.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



Stevens
§173.150(3)(e)
Exceptions
09-0251

October 27, 2009

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Dear Mr. Mazzullo:

RE: Aqueous Solutions of Alcohol Exemption
49 CFR 173.150(3)(e)

This letter serves as a request for an interpretation related to the regulations promulgated in 49 Code of Federal Regulations (CFR) 173.150(3)(e). These rules outline an exemption for aqueous solutions which state, "An aqueous solution containing 24 percent or less alcohol by volume and no other hazardous material – (1) May be reclassified as a combustible liquid, (2) Is not subject to the requirements of this subchapter if it contains no less than 50 percent water."

If a solution meets this exemption because it contains less than 24 percent alcohol by volume and is more than 50 percent water, is the shipping facility required to test and inspect the intermediate bulk container (IBC) used to ship the solution as defined in 40 CFR 180?

Additionally, is the exempted solution also then considered a non-regulated Department of Transportation material?

If you should require further information or have additional questions, Please feel free to contact me directly at (920) 496-6868 or via email at mfrozena@foth.com. Your assistance is appreciated and I look forward to your response.

Sincerely,

Foth Infrastructure & Environment, LLC

A handwritten signature in black ink that reads "Michele L. Frozena".

Michele L. Frozena
Lead Environmental Scientist

cc: Kurt P. Goomey, P.O. Box 850, Manitowoc, Wisconsin 54220