



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

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

FEB 16 2011

Mr. Robert J. Ten Eyck
Director, Technical Services
TEN-E Packaging Services, Inc.
1666 County Road 74
Newport, MN 55055

Ref. No. 10-0092

Dear Mr. Ten Eyck:

This responds to your letter dated, requesting clarification of the inner packaging quantity limitations for nitric acid under § 173.158(b)(2), (d)(1), (d)(2), (e), (f)(2), (f)(3), (h)(1) and (h)(2) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the “not over 2.5 L” inner packaging quantity limitation as specified in the above referenced paragraphs of the § 173.158 packaging instruction for nitric acid refers to overflow capacity or nominal capacity while recognizing the latter to infer a certain amount of outage manufactured into the packaging when necessary.

Nitric acid of 70% or less concentration offered for transport by rail, highway, or water may be packaged in certain combination packagings with plastic, glass, or earthenware inner packagings not over 2.5 L capacity each. The term “not over” as used in § 173.158 means that you may not use an inner packaging with a maximum capacity greater than 2.5 L (i.e., overflow capacity).

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

Sincerely,

A handwritten signature in black ink that reads "T. Glenn Foster". The signature is fluid and cursive.

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



Stevens
§173.158
Non-Bulk Packaging
10-0092

April 21, 2010

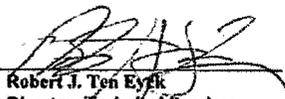
Susan Gorsky
U.S. DEPARTMENT OF TRANSPORTATION
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Standards, PHH-10
1200 New Jersey Avenue
SE Building, 2nd Floor
Washington, DC 20590

Dear Susan:

TEN-E Packaging Services, Inc. is writing to request a clarification concerning maximum capacity for 2.5 liter glass and plastic bottles referenced in Sections 173.158(b)(2), (d)(1), (d)(2),(e), (f)(2), (f)(3), (h)(1) and (h)(2) of Title 49 CFR. Does the statement "not over 2.5 L" used in these sections mean overflow capacity or nominal capacity with a recognition for the latter that a certain outage can be built into the packaging?

TEN-E Packaging Services would appreciate having the agency's viewpoint on this capacity matter.

Sincerley,



Robert J. Ten Eyck
Director, Technical Services
TEN-E Packaging Services, Inc.

TEN-E Packaging Services, Inc.
1666 County Road 74
Newport, MN 55055
Phone: 651-459-0671
Fax: 651-459-1430
Email: info@ten-e.com
Web: www.ten-e.com

UNITED STATES - MN