



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

OCT 29 2010

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

Mr. Kyle Long
Metropolis Industries, LLC.
29193 Northwestern Hwy.
Suite 549
Southfield, MI 48034

Reference No.: 10-0221

Dear Mr. Long:

This is in response to your email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation from Taiwan to Long Beach, California of your product, "Partystar Spiked Jel Shots," an alcoholic gelatin. You state your product is composed of 12% alcohol by volume, contained in 37.5 ml sealed plastic cups, and further packed in a corrugated box. You ask whether your product is subject to the HMR.

Under § 173.22 of the HMR, it is the shipper's responsibility to properly class and describe a hazardous material in accordance with Parts 172 and 173 of the HMR. Generally, this Office does not perform that function. However, § 173.150(d) excepts an alcoholic beverage (wine and distilled spirits as defined in 27 CFR 4.10 and 5.11) from the HMR if it: (1) contains 24% or less alcohol by volume; (2) is in an inner packaging of 5 L (1.3 gallons) or less, and for transportation on passenger-carrying aircraft it conforms to § 175.10(a)(4) of the HMR as checked or carry-on baggage; or (3) is a Packing Group III alcoholic beverage in a packaging of 250 L (66 gallons) or less, unless transported by air. Therefore, based on the information you provided, it appears your product is not subject to the HMR because it meets the requirements specified in § 173.150(d).

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

Sincerely,

T. Glenn Foster
Chief, Standards Development
Office of Hazardous Materials Standards

Benedict
§171.1
§172-101

Drakeford, Carolyn (PHMSA)

From: Benedict, Robert (PHMSA)
Sent: Wednesday, October 20, 2010 9:01 AM
To: Drakeford, Carolyn (PHMSA)
Subject: RE: Missing Interp Request Letter

Applicability
10-0221

From: klong@partystarshots.com [<mailto:klong@partystarshots.com>]
Sent: Friday, July 09, 2010 4:30 PM
To: INFOCNTR (PHMSA)
Subject: Title 49 Transportation

Hello,

I spoke to Mike Stevens yesterday regarding the transportation of my product from Taiwan to the USA. I would like to confirm the information Mike provided me with. Here are the specifics;

My Product: Alcoholic Jello Shot (HTS Code 2208.90.7500)
12% alcohol
37.5ml pr pc
inner packaging: sealed plastic cup
outer packaging: corrugated box
quantity: 120 pcs per box

These boxes will be placed in a 40ft container and shipped via ocean from Taiwan to Long Beach, CA. We will also be shipping this by air from time to time. Mike informed me that this product falls under International Air Standards Special Provision A9 as it would relate to shipping this product via air. With that being said, Mike informed me that this product would not be subject to any special labeling, marking or placarding and is not considered a hazardous material (whether shipped via air or sea), thus not falling under Title 49. Please confirm if this information is accurate and inform me if your office can send me a letter stating your findings.

Thank you for your time and best regards.

Kyle P. Long
VP, Logistics
klong@partystarshots.com

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