



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAR 30 2012

Mr. Tim Jamison
Logistics Manager
Colorcon No Tox Products
171 New Britain Blvd.
Chalfont, PA 18914

Ref. No. 12-0029

Dear Mr. Jamison:

This responds to your January 23, 2012, request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). According to your letter your product contains 24% or less alcohol by volume and contains no less than 50% water, as well as less than 3% of ammonium hydroxide solution as a PH balancer. You ask whether your product meets the provisions of the § 173.150(e) exception for aqueous solutions.

The answer is no. It is the opinion of this office that the product you describe does not qualify for the § 173.150(e) exception for aqueous solutions because it contains other hazardous material, i.e. ammonium hydroxide. The aqueous solution may not contain any other hazardous material as defined in § 171.8. Section 173.150(e) authorizes an aqueous solution containing 24% or less alcohol by volume and no other hazardous material to be either reclassified as a combustible liquid or excepted from regulation under the HMR if it contains 50% or more water.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division



Boothe
§173.150(e)
Exceptions
12-0029
January 23, 2012

U.S. DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

To whom it may concern,

I am requesting a written formal interpretation for 49CFR §173.150(e) *Aqueous solutions of alcohol*.

My company would like to utilize this exception for shipping a product that we think qualifies under the parameters set forth by said exception. Our product contains less than 24% alcohol, and has more than 50% water. The need for the interpretation comes into play due to the fact that the product also contains a small amount (< 3%) of ammonium hydroxide solution as a PH balancer. The finished product has a flash point of 11°C but does not possess any of the characteristics or attributes of the ammonium hydroxide ingredient (Class 8 corrosive liquid).

I recognize that the exception in question, in addition to the alcohol and water volume designations, states "and no other hazardous material" as part of the overall qualifying stipulation.

My question is regarding that segment of wording "no other hazardous material". Is this to be taken in a literal absolute sense of constituent ingredients or does it apply to the profile of the finished product? I have reviewed several previous interpretations on this subject and see that some former interpretations have unfavorably referenced the definition of "hazardous material" as defined in 49CFR §171.8. The position on one of those interpretations (ie..Ref. No. 03-0022), refers the applicant to the §171.8 definition of hazardous material.



I too would reference §171.8 and ask one during consideration of this request to review the established definition. It clearly states "...when transported in commerce". By asserting the fact that the material must be transported in commerce, does that not in fact mean that one must be referencing the actual finished goods that will be introduced onto our roads? If this is the intent and/or spirit of the regulation exception, than wouldn't our product qualify?

Additionally, the regulations state in many places that a material listed by name in the HMT that does not have the properties of the hazard classes or divisions as shown in the table are not regulated under this subchapter (unless of course there is a "+" in column one (1) of the HMT or applicable Special Provisions for the material in question. For this finished product, there are no such applicable provisions therefore, even though we have another material in the formula that is listed in the HMT, under this situation it does not meet the hazardous properties of that listed material and should not be regulated as a hazardous material.

Ultimately, the product that we would be introducing into the cycle of transportation meets the definition of a Class 3 Flammable Liquid. It demonstrates no other properties indicative of any other hazards or hazard classes. Being as its constituent ingredients meet the volumetric parameters set forth in §173.150(e), I challenge the competent authority to provide an interpretation specific to this inquiry.

Kind Regards, 

Tim Jamison
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267-695-7718