



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

SEP 25 2012

Mr. Christopher J. Sutton
Perkins Coie
1900 Sixteenth Street, Suite 1400
Denver, CO 80202-5255

Ref. No. 12-0157

Dear Mr. Sutton:

This responds to your July 16, 2012 letter requesting clarification of the exceptions for Class 3 flammable liquids under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you describe an ethanol-water solution containing less than 24% ethanol and greater than 50% water by volume. Additionally, the solution contains two non-hazardous additives in concentrations less than 2%. Both additives have flash points above 100 °C and are not a hazardous substance, hazardous waste, or marine pollutant. Specifically, you ask whether the ethanol-water solution qualifies for exception from the HMR requirements offered under § 173.150(e) for aqueous solutions of alcohol.

Section 173.22 of the HMR states that a shipper is required to properly class and describe the hazardous material in accordance with Parts 172 and 173 of the HMR. We do not perform this function. However, based on the information provided, it is our opinion that the aqueous solution of ethanol as described in your letter qualifies for the exception under § 173.150(e). Specifically, an aqueous solution containing 24% or less alcohol by volume and no other hazardous material is not subject to the HMR if the solution contains no less than 50% water by volume (see § 173.150(e)(2)).

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division

Der Kinderen
§173.150
Exceptions
12-0157



1900 Sixteenth Street, Suite 1400
Denver, CO 80202-5255
PHONE: 303.291.2300
FAX: 303.291.2400
www.perkinscoie.com

July 16, 2012

SENT VIA OVERNIGHT FEDEX

Ben Supko
Acting Chief, Standards Development
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Standards
1200 New Jersey Ave, S.E.
Washington, D.C. 20590

**Re: Confirmation of Exemption from Hazardous Materials Regulation
49 C.F.R. §173.150(e)**

Dear Mr. Supko:

I am seeking confirmation on behalf of my client, Advanced Energy Industries, Inc. ("AEI"), that an ethanol-water solution is exempted under of 49 C.F.R. §173.150(e) of the Hazardous Materials Regulations ("HMR") for purposes of shipping the product by truck or rail only.

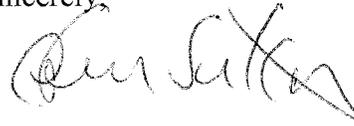
The ethanol-water solution contains less than 24% ethanol by volume and more than 50% water. The closed cup flash point of the ethanol-water solution is 110° F. The solution is used as coolant solution rather than for consumption. The ethanol-water solution contains two non-hazardous additives in very low concentrations which are described below. AEI will ship up to 6 gallons of the ethanol-water solution by ground transportation only (i.e., truck or rail) in a single device or container.

The first additive to the coolant solution is for leak detection. It is a fluorescent dye used for water-based fluids. The additive is made up of deionized water (75-95%) and dye (5-25%). The dye additive has a flash point of 93.3° C. The second additive is 2-Mercaptobenzothiazole or "MBT." MBT is used as an antibacterial/antifungal agent. MBT has a reported flash point of 252°C. The concentrations of the two additives in the ethanol-water solution is typically below 2%. No other hazardous materials are present in the solution. At the concentrations used in the ethanol-water solution (less than 2%), neither additive is a hazardous waste or a "marine pollutant" as defined under 49 C.F.R. §173.150(f)(2) of the HMR.

Mr. Ben Supko
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Based on the foregoing description of the product, please confirm that the ethanol-water solution qualifies for the exemption for aqueous solutions of alcohol under §173.150(e) of the HMR.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Sutton", written in a cursive style.

Christopher J. Sutton