



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

FEB 12 2007

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Gary A. Peters
Howard & Howard Attorneys
The Pinehurst Office Center
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151

Ref. No. 06-0191

Dear Mr. Peters,

This responds to your August 28, 2006 letter requesting clarification on the applicability of the exception for aqueous solutions of alcohol in §173.150(e) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the alcohol solution you ship meets the provisions in §173.150(e), and whether §173.150(f) has any impact on your shipment if transported by aircraft or vessel.

According to your letter, your client ships a product containing 10% Isopropyl Alcohol with greater than 75% water with a second ingredient, "Nonylphenoxy poly (etheleneoxy) ethanol," a nonionic surfactant-alkylphenol ethoxylate (NPE), which is not a hazardous material under the HMR. This product has a flash point of 104° F, contains no other hazardous materials, and is packaged in a 2.75 gallon container.

According to §173.150(e), an aqueous solution of alcohol may be reclassified as a combustible liquid, and is not subject to the HMR when it contains 24% or less alcohol by volume, no other hazardous material, and more than 50% water. Based on the information provided in your letter, it is the opinion of this Office that your alcohol solution *does* meet the provisions in §173.150(e) as an aqueous solution of alcohol, and is not subject to the HMR when transported by all modes. However, if you choose to use the exception in §173.150(f), transportation by aircraft or vessel is not authorized except where other means of transportation is impracticable.

I hope this answers your inquiry.

Sincerely,

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



060191

173.150(e)

Ann Arbor Bloomfield Hills Kalamazoo Peoria

Howard & Howard
law for business

Boothe
§173.150(e)
Exceptions
06-0191

direct dial: 248 723.0490

Gary A. Peters

email: GPeters@howardandhoward.com

Also admitted to practice in
Illinois, Iowa and Pennsylvania

August 28, 2006

Mr. Ed Mazzullo, Director
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Safety
400 7th St., S.W.
Washington, DC 20590

Via Fax (202) 366-3012

RE: REVISED Letter of Clarification on Applicability of 49 CFR §173.150(e)

Dear Mr. Mazzullo:

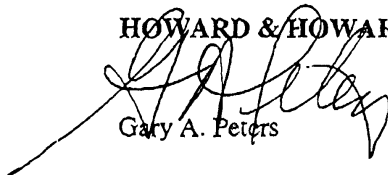
We are submitting this **REVISED** letter as a follow-up to my letter of August 23, 2006 requesting clarification on whether or not a product that is shipped by one of our clients is subject to the Hazardous Materials Regulation (HMR) or exempt as an "aqueous solution of alcohol" pursuant to 49 CFR §173.150(e). This revised request reflects new information received from the manufacturer regarding one of the constituents in the product.

The product contains less than 10% of Isopropyl Alcohol and greater than 75% water. We have been informed by the manufacturer that the second ingredient, "Nonylphenoxy poly (ethyleneoxy) Ethanol," is a nonionic surfactant-alkylphenol ethoxylate (or NPE) and is not a DOT hazardous material. According to the manufacturer, this chemical was disclosed in the MSDS purely for OSHA requirements under 29 CFR 1910.1200. The product has a flash point of 104°F, and contains no other hazardous materials. The product is packaged in a 2.75 gallon container.

Based on the foregoing description of this product, please clarify or confirm whether this product is subject to the HMR or whether this product is not regulated as a DOT hazardous material (i.e. not subject to the requirements of Subchapter C). If this product is not regulated as an "aqueous solution of alcohol," does the following subsection, 49 CFR §173.150(f) - "Combustible liquids," have any impact on whether this product can still be shipped via aircraft or vessel?

Sincerely,

HOWARD & HOWARD ATTORNEYS


Gary A. Peters