



U.S. Department
of Transportation
**Research and
Special Programs
Administration**
SEP 22 2004

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

Mr. Richard C. Barlow
Manager, Global Logistics Compliance
Lyondell Chemical Company
1 Houston Center
1221 McKinney
Suite 1600
PO Box 2583
Houston, TX 77252-2583

Ref No. 04-0167

Dear Mr. ^{R.C.K.}Barlow:

This is in response to your August 3, 2004 letter requesting clarification of permissive placards and the basic shipping description on shipping papers under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether your company is allowed to affix placards indicating a subsidiary risk of a hazardous material when additional placarding is not required by the HMR. You also ask whether your company is allowed to modify the basic shipping description on shipping papers to include the subsidiary hazard risk(s) of the hazardous material.

You state your company transports tert-Butyl Hydroperoxide in United Nations (UN) portable tanks at a 72% concentration (mass). Your company has determined this material to have a flash point of 109 degrees F and flammable limits of 5.7% to 99.9%. You state your company displays a Division 5.2 (organic peroxide) placard as required by the HMR. You state your company also displays Class 8 (corrosive) and Class 3 (flammable and combustible liquid) placards on transport vehicles carrying this material to indicate subsidiary hazardous risks of this material. You ask whether the addition of the Class 8 and Class 3 placards, and modification of the basic shipping description on shipping papers to indicate subsidiary risks of this material are allowed by the HMR.

As provided in § 172.502, you may affix or display placards on a packaging, freight container, unit load device, motor vehicle or rail car provided the placard represents a hazard of the material being offered or transported. As provided in § 172.504, placards may be displayed for a hazardous material, even when not required, if the placarding otherwise conforms to the requirements of Subpart F – Placarding. As provided in § 172.505, hazardous materials that possess secondary hazards may exhibit subsidiary placards that correspond to the placards described in Part 172 of the HMR even when not required.

Effective October 1, 2005, § 172.202 requires that, except for combustible liquids, the subsidiary hazard class(es) or subsidiary division number(s) of the hazardous material must be entered in parentheses immediately following the primary hazard class or division number. For example,



040167

§ 172.502(c)

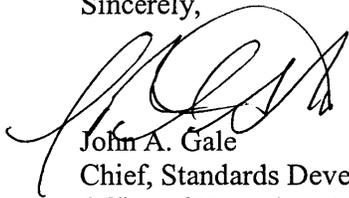
under your scenario described above, the shipping description on your shipping papers for this material could be indicated as:

“Organic Peroxide type F, liquid (tert-Butyl Hydroperoxide), 5.2 (8, 3), UN3109, PGII.”

In addition, the words “Class” or “Division” may be included preceding the primary and subsidiary hazard class or division numbers.

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Gale', written in a cursive style.

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



Foster
§ 172.502(c)
Placarding
04-0167

One Houston Center
1221 McKinney
Suite 1600
P.O. Box 3646
Houston, TX 77253-3646
Telephone: 713.652.7200

July 14, 2004

Mr. Edward Mazzallo
US Department of Transportation
Research and Special Programs Administration
Office of Hazardous Materials Regulation
400 Seventh Street, SW
Washington, DC 20590

Dear Mr. Mazzallo:

This is a request for clarification on the use of "Permissive Placards" as described in 49 CFR 172.502 and any resulting consequential changes to the basic shipping description.

We are the shipper for *tert*-BUTYL HYDROPEROXIDE, UN3109, an organic peroxide that is specifically listed in the Table in 49 CFR 173.225.

This material has a flash point of 109°F and Flammable Limits of 5.7% to 99.9%.

We currently ship this material in a UN Portable tank at a concentration of 72% with safety precautions as required by the HMR.

We apply the organic peroxide placard, to indicate the primary hazard of the material, a corrosive placard to indicate the subsidiary corrosive hazard (corrosive hazard indicated by the requirement to have a corrosive label in the table in 49 CFR 173.225 footnote 13) and a flammable placard because this material is flammable and has such a wide flammable range. This appears to be permitted by 49 CFR 172.502(c).

Is it also permissible to modify the basic shipping description to include the subsidiary hazard risks?

ORGANIC PEROXIDE TYPE F (TERT-BUTYL HYDROPEROXIDE), 5.2, (8, 3), UN3109, II

This seems to be the logical extension of the rule for "Permissible Placards" in that the indication of Class 8 is required by footnote 13 to the table in 49 CFR 173.225 and the addition of Class 3 provides additional emergency response information that relates to a actual hazard of this material.

Your thoughts on this question will be greatly appreciated.

Sincerely,

Richard Barlow *by me*

Richard C. Barlow
Manager, Global Logistics Compliance
Lyondell Chemical Company

Lyondell Chemical Company



FAX

August 3, 2004

Lyondell Chemical Company
One Houston Center, Suite 1600
1221 McKinney Street
Houston, Texas 77010

To: Glenn Foster

From: Rick Barlow
Manager, Logistics Compliance
& Standards
FAX: 713/ 652-4686
Phone: 713/ 309-7379

FAX: 202/366-3012
Phone: 202/366-8553

Number of Pages: 2 (including cover)

Subject: Request for Interpretation

Dear Mr. Foster:

Enclosed is a FAX copy of my request for interpretation as we discussed today. Please review and provide your comments.

If you have any questions, please call me.

Richard Barlow