



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

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

AUG - 5 2003

Mr. John Gardner
Optical Dynamics Corporation
10100 Bluegrass Parkway
Louisville, KY 40299

Ref. No. 03-0143

Dear Mr. Gardner:

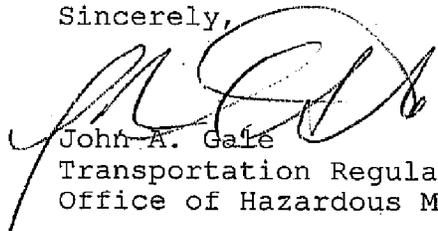
This is in response to your letter dated May 27, 2003, concerning the definition of consumer commodity under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked if your products meet the definition of a consumer commodity in § 171.8. You state that your products are packaged in accordance with the limited quantity provisions. You also state that the products are packaged in a manner that is suitable for retail sale, however, the products are not intended for consumption by individuals for purposes of personal care or household use.

To ship your product as a Consumer commodity, ORM-D, it must: 1) meet the definition for consumer commodity; 2) in the packaging section referenced in the Hazardous Materials Table in § 172.101, be allowed a special exception for shipment as an ORM-D; and 3) be packaged for shipment in accordance with the limited quantity provisions.

A consumer commodity is defined as a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use. The definition includes materials that are suitable for retail sale even if not specifically so intended.

I hope this satisfies your request.

Sincerely,


John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



030143

171-8

BAH
§ 171.8
Definitions

Wednesday, May 27, 2003 03-0143

U.S. Department of Transportation,
Research and Special Programs Administration,
Office of Hazardous Materials Standards,
400 Seventh St. S.W.,
Washington, DC 20590

03 JUN -3 PM 11:22
HAZMAT SAFETY
DOT/RSPA

Could you please verify the following?

Would you kindly provide clarification regarding our products meeting the definition of a *Consumer Commodity* as outlined in section (171.8) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The following list identifies each product, describes its use and how each product is packaged.

Isopropyl Alcohol

UN1219, Class 3, Packing Group II

Packaged within: (4)-16 oz. plastic inner receptacle (bottles) *inside* UN Specification 4G fiberboard box.

Product use: Lens/Mold cleaning solution

Acetone

UN1090, Class 3, Packing Group II

Packaged within: (4)-16 oz. plastic inner receptacle (bottles) *inside* UN Specification 4G fiberboard box.

Product use: Lens/Mold cleaning solution

Hydrochloric Acid, Solution

UN1789, Class 8, Packing Group II

Packaged within: (1)-1 oz. plastic inner receptacle (bottle) *inside* fiberboard box.

Product use: (Water) PH Balance test kit

Flammable Liquid, N.O.S.

UN1993, Class 3, Packing Group II

Packaged within: (1)-16 oz. amber glass inner receptacle (bottle) *inside* UN Specification 4G fiberboard box.

Product use: Produces a scratch resistant coating on lens

1-Methoxy-2-propanol, Solution

UN3092, Class 3, Packing Group III

Packaged within: (6)-4 oz. plastic inner receptacle (bottle), (1)-8 oz. plastic inner receptacle (bottle), *inside* fiberboard box.

Product use: Produces a scratch resistant coating on lens

These products are sold to various independent ophthalmologist, optometrist, and opticians, as well as select larger retail chains. These products are used in various stages of transforming semi finished products into lenses for eyeglasses, from cleaning the glass molds to applying a scratch resistant coating, to cleaning the finished lens.

The Isopropyl Alcohol previously mentioned is chemically equivalent to common antiseptic alcohol sold in the family drug store; the same can be said of the acetone with fingernail polish remover. In fact, the Isopropyl Alcohol found in stores is packaged in a 16 oz. plastic receptacle bottle, as is ours. The only difference being the intended application; one customer uses these materials for cosmetic purposes and personal hygiene, the other uses for the cleaning and preparation of a medical device, an ophthalmic lens. The FDA considers ophthalmic lenses a class I Medical Device. The Flammable Liquid, N.O.S. chemicals outlined above either contains (Acetone and Isopropanol) or (Acetone and 1-Methoxy-2-propanol) mixture.

All UN numbers mentioned previously are afforded the ORM-D exception per the Hazardous Materials Table (HMT), provided they meet the definition of a *Consumer Commodity*, as per (171.8) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Based on the above-mentioned descriptions, we believe the previously listed products to be true *Consumer Commodities*. To verify this issue and avoid conflict, please provide written clarification whether or not the above-mentioned products meet the definition of a *Consumer Commodity* and should be afforded the ORM-D classification.

Please respond at your earliest convenience, in writing via facsimile at (502) 753-0134, to clarify whether the above-mentioned products meet the definition of a *Consumer Commodity*. Also, can you verify if a *Consumer Commodity* can be transported via truck from the blending and packaging facility to our company, which in turn ships directly to the customer? I look forward to hearing from you.

Sincerely,


John Gardner