



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

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

FEB 26 2003

Mr. Michael J. Marino
Senior Attorney
TNT Logistics North America
10751 Deerwood Park Boulevard, Suite 200
Jacksonville, FL 32256

Reference No. 03-0010

Dear Mr. Marino:

This is in response to your January 15, 2003 letter and telephone conversation with a member of my staff concerning the shipment via motor carrier of individual fuel nozzles that have been drained but could contain a residual amount of diesel fuel. The material safety data sheet you subsequently submitted states the diesel fuel has a flash point of 125 °F and meets the definition for a Class 3 (flammable) material. You asked if the fuel nozzles that are in sealed plastic bags and packed in non-bulk fiberboard boxes are excepted from the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

The answer is yes. As you are aware, a flammable liquid (Class 3) with a flash point at or above 38 °C (100 °F) that does not meet the definition of any other hazard class may be reclassified as a combustible liquid (see § 173.120(b)(2)). Under § 173.150(f)(2), a combustible liquid, that is not a hazardous substance, hazardous waste, or a marine pollutant and is packaged in a non-bulk packaging, i.e., a packaging having a liquid capacity of 450 L (119 gallons) or less, is not subject to the requirements contained in the HMR.

I hope this satisfies your request.

Sincerely,

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards



030010

173.150(f)(2)
173.120(b)(2)

Edmonson
§173.150
§173.120(b)(2)
Exceptions
03-0010



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VIA FACSIMILE

January 15, 2003

Ed Mazzullo
United States Department of Transportation - RSPA
Office of Hazardous Materials Standards
407th St. SW
Washington, DC 20590

Fax: (202) 366-3012

Re: 40 CFR § 173.150 - Exceptions for Combustible Liquids

Dear Mr. Mazzullo

The purpose of this letter is to confirm an interpretation that my safety manager received from Debbie on your staff earlier today.

According to 49 CFR § 173.150(f)(2), "[t]he requirements in this subchapter do not apply to a material classed as a combustible liquid in a non-bulk packaging unless the combustible liquid is a hazardous substance, a hazardous waste, or a marine pollutant." Our company ships via motor carrier individual fuel nozzles that could contain a residual amount of diesel fuel. Our understanding is that diesel fuel is not a hazardous substance, hazardous waste, or a marine pollutant. In addition, our shipment of fuel nozzles is in non-bulk packaging. Thus, the only remaining question is whether diesel fuel qualifies as a combustible liquid pursuant to § 173.150.

In my conversation with Debbie, she informed me that pursuant to § 173.120(b)(2), diesel fuel can be reclassified as a combustible liquid. Under those circumstances, therefore, diesel fuel shipped via motor carrier in non-bulk packaging should be exempt from the regulations relating to transportation (i.e., the "requirements in this subchapter").

Please respond at your earliest convenience, in writing via facsimile at (904) 996-1220, to confirm the interpretation provided by Debbie to my safety manager earlier today. I look forward to hearing from you

Sincerely,



Michael J. Marino