



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

APR 28 1999

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

Ms. Barbara J. Verdon
Manager - Legal Administration
Suburban Propane
P.O. Box 206
Whippany, NJ 07982-0206

Ref. No: 99-0055

Dear Ms. Verdon:

This is in response to your letter of February 12, 1999, to the Office of Motor Carrier Research and Standards regarding the materials of trade exception in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your letter was referred to the Research and Special Programs Administration for response.

You provide a scenario where Suburban Propane, in the course of delivering propane to customers, transports small amounts of methanol for use as an additive to prevent internal freezing of regulators, valves and/or lines in your customers' propane systems. You ask whether the methanol may be transported as a material of trade under the provisions of § 173.6.

The answer is yes. The materials of trade definition in § 171.8 includes a private motor carrier transporting hazardous materials in direct support of a principal business that is other than transportation by motor vehicle. Your primary business is supplying propane to customers; in the course of that business you use small amounts of methanol to directly support the business. However, if you delivered the methanol to your customers for their eventual use it would not be considered a material of trade.

Please be aware that all the provisions of § 173.6 must be met. Packaging for materials of trade must be the manufacturer's original packaging or a packaging of equal or greater strength and integrity. In addition, all packagings for liquids must be leaktight and securely closed.

I hope this information is helpful.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



990055

173.6

Calvalle
§173.6

Suburban Propane

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99-0055

February 12, 1999

Mr. Paul Brennan
U.S. Department of Transportation
Office of Motor Carrier Research & Standards
400 7th St. SW
Washington, DC 20590

Re: Uniform Traffic Ticket # LC 664056 1
David P. Dennette D/I 02/08/99

Dear Mr. Brennan:

In connection with the above ticket, we have been referred to you by the Albany, NY office of the USDOT for a formal interpretation that would clarify the ability of Suburban Propane to assert a Materials of Trade exception defense (49 CFR §173.6) to the attached citation.

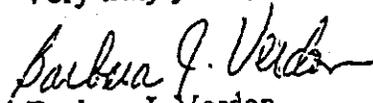
On 02/08/99 while operating his vehicle in a safe manner, David P. Dennette, Suburban's driver, was pulled over for an inspection. Mr. Dennette was cited under 49 CFR §177.817 for failing to have shipping papers for the small amount of methanol being carried on his vehicle. It is Suburban's belief that the transportation of methanol by our drivers in an amount less than 30 L (8 gallons) qualifies as a Material of Trade, provided the remaining conditions of 49 CFR §173.6 have been met.

For your information Suburban Propane's principle business is the retail sales of propane. The NAICS code used to register our business type with the Federal Government is 454312 and our SIC code is 5984 (propane retail operations). Methanol is carried on Suburban's vehicles so that it may be used as an additive to prevent the internal freezing of the regulators, valves and/or lines contained within the propane systems of our customers.

It is Suburban's position that the foregoing use of methanol satisfies the definition of Material of Trade found in 49 CFR §171.8 *Material of trade*, (3). As such, Suburban respectfully submits that the Materials of Trade exception set forth in 49 CFR §173.6 should apply and operate as a defense against the subject citation.

We look forward to hearing from you. Should you have any questions or require additional information, please do not hesitate to contact me at (973) 503-9990. Thank you for your cooperation.

Very truly yours,



Barbara J. Verdon

Manager - Legal Administration

Attachment