



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

OCT 11 2007

Mr. Frederick W. Klein
Hazardous Materials Officer
Landmark Aviation
Smith Reynolds Airport
3821 North Liberty Street
Winston-Salem, NC 27015

Ref No.: 07-0167

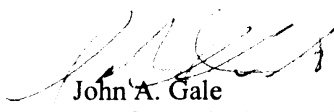
Dear Mr. Klein:

This is in response to your letter dated August 20, 2007 in regard to hazardous materials carried on board an aircraft under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if 20 oz cans of flammable aerosols, used as anti-icing additive for your aircraft fuel, are excepted from the HMR.

In accordance with § 175.8(a)(2), hazardous materials required aboard an aircraft in accordance with the applicable airworthiness requirements and operating regulations are excepted from the requirements of the HMR. Therefore, if the aerosol cans of anti-icing additive are required aboard the aircraft by airworthiness requirements or operating regulations provided by the Federal Aviation Administration, these items would not be subject to the HMR. If the FAA does not require the carriage of the aerosol cans, then the exceptions in § 175.8(a)(2) do not apply and the aerosol cans of anti-icing additive are subject to the requirements of the HMR.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,



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



070167

175.8(a)(2)

Supko
§ 172.101, 175.8(a)(2)
§ 173.306
Applicability
07-0167

August 20, 2007

Associate Administrator for Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
400 Seventh St., S.W.
Washington, D.C. 20590

Dear Sirs:

Landmark Aviation operates a fleet of approximately 30 turboprop and turbojet aircraft under 14 CFR Part 135. About one third of these aircraft require the use of Prist HI-FLO Anti-Icing Fuel Additive mixed with Jet-A fuel, due to the fact that these aircraft are not equipped with approved fuel heaters.

The vast majority of domestic fueling facilities premix Prist with Jet-A, however, that is not always the case when operating outside of the United States. During many international flight operations, we routinely carry several containers (20 oz. aerosol cans) of Prist in the aircraft in the event that premix fuel is not available.

It should be pointed out that the use of Prist by these select aircraft is mandatory by FAR's. The limitations section of the AFM specifically mandates the addition of Prist, thus, to not add Prist is a violation of FAR. In fact, the lack of Prist at very high altitudes can lead to engine flameouts with devastating results. This brings up the issue of IATA Exemption 2.5.1. According to 2.5.1.1, any aircraft equipment required for the airworthiness of the aircraft is exempt from HM regulations. Does that include Prist? Or would that apply only when the Prist is already mixed with the fuel? Please respond to both of the above questions.

According to the MSDS (see enclosed), the 20 oz. Aerosol Can is a Consumer Commodity, ORM-D (US DOT Description). On the other hand, the very same 20 oz. aerosol can is considered to be a Flammable Aerosol, 2.1, UN1950, if carried by air (Export Description). Further, it has been stated by some shippers that "Consumer Commodity" applies only if carried by vehicle (truck), and that "Aerosols, Flammable" always applies if carried by air, during both domestic and international operations. Are these statements true?

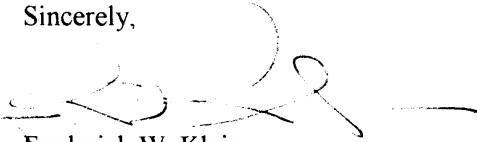
To date, we have carried all Prist containers in full compliance with HM requirements, including the use of specification outer packaging. In the future, we will utilize all of the provisions of 173.306, as directed by the Hazardous Materials Table of 172.101, unless directed otherwise. This includes Limited Quantity marking and "strong outside packaging" in place of specification outer packaging. Obviously, we would prefer to use

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the provisions of the IATA exemption, in which case the carriage of Prist would not be regulated. That is a separate issue which must be addressed.

Your timely response in all of these matters will be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Frederick W. Klein', with a long horizontal line extending to the right.

Frederick W. Klein
Hazardous Materials Officer
Landmark Aviation