



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JUN 15 2015

Steve Foster
Scientific Innovations, LLC
1825 36th Avenue Ct.
Greeley, CO 80634

Ref. No. 15-0051

Dear Mr. Foster:

This responds to your February 6, 2015 e-mail requesting clarification on the exceptions for Class 3 flammable and combustible liquids under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the "liquid essential plant oils" described in your e-mail can be classed as "Combustible liquid, n.o.s." and as such, be excepted from the requirements of the HMR (e.g., shipping papers, marking, labeling, placarding, etc.) when transported in non-bulk packaging under § 173.150(f)(2).

Under § 173.22, it is the shipper's responsibility to classify a hazardous material. This Office does not normally perform this function. However, the answer to the first portion of your question is yes, if the material described in your e-mail is consistent with the definition of a combustible liquid under § 173.120(b)(1). Section 173.120(b)(1) provides that a combustible liquid is "any liquid that does not meet the definition of any other hazard class specified in this subchapter [the HMR] and has a flash point above 60 °C (140 °F) and below 93 °C (200 °F)." Furthermore, § 173.150(f)(2) states that the "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." Thus, if the material described in your e-mail meets the definition of a combustible liquid and is not a hazardous substance, a hazardous waste, or a marine pollutant as defined in the HMR, it is the opinion of this Office that this material is a combustible liquid and would not be subject to the requirements of the HMR when transported in non-bulk packaging.

I hope this answers your inquiry. If you need additional assistance, please contact this Office again.

Sincerely,

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

hesto
§ 173.150 Exceptions
for Class 3 (flammable
and combustible liquids)

15-0051

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Friday, March 13, 2015 11:50 AM
To: Hazmat Interps
Subject: FW: Request for Letter of Interpretation

Also not in filemaker

From: Ciccarone, Michael CTR (PHMSA)
Sent: Friday, February 06, 2015 5:00 PM
To: Hazmat Interps
Subject: FW: Request for Letter of Interpretation

Shante/Alice,

Please submit this for a formal letter of interpretation. Mr. Foster spoke with Adam.

Thanks,

Mike

From: Steve Foster [<mailto:stevefoster4@msn.com>]
Sent: Friday, February 06, 2015 3:50 PM
To: INFOCNTR (PHMSA)
Subject: Request for Letter of Interpretation

February 6, 2015

**TO: US Department of Transportation
Pipeline and Hazardous Materials Safety Administration**

RE: Request for Letter of Interpretation Regarding Exceptions for Class 3 Flammable and Combustible Liquids

I am a 3rd party seller on Amazon, marketing liquid essential plant oils, such as peppermint oil, all of which have flash points between 141 and 200 degrees Fahrenheit.

The largest single volume of individually packaged product is 4 fluid ounces. The largest single volume of replenishment shipment to Amazon's fulfillment centers is made up of 144 individually packed 4 ounce bottles, comprising 4.5 gallons per carton. The largest single shipment to date has included 3 cartons.

After considerable consultation with the helpful people at the PHMSA hotline, it is my understanding that the essential oils in question are correctly classified, for Department of Transportation purposes, as combustible liquid, nos.

My problem is this. Amazon has twice prohibited me from replenishing inventory, and has now delisted one of my products for sale and shipment by FBA (Fulfillment by Amazon) on grounds that it is a hazardous

material subject to restrictive transportation requirements by the United States Department of Transportation. They cite as reference 49 U.S.C 5103, specifically 49 CFR 172.101 and 49 CFR 173.

I am writing to ask for a letter of clarification that I may present to Amazon, verifying that these essential oils are correctly classified as "combustible liquids, nos," and as such, qualify for exception under 49 CFR 173.150, specifically: CFR 173.150 (f) (2) which states "The 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."

"Non-bulk" packaging is defined in CFR 171.8 as "a packaging which has: (1) A maximum capacity of 450 L (119 gallons) or less as a receptacle for a liquid; (2) A maximum net mass of 400 kg (882 pounds) or less and a maximum capacity of 450 L (119 gallons) or less as a receptacle for a solid; or (3) A water capacity of 454 kg (1000 pounds) or less as a receptacle for a gas as defined in §173.115 of this subchapter.

As such, these non-bulk volumes of combustible liquids, nos, are not subject to special shipping or labeling requirements when shipped within the United States.

Sincerely,

Steve Foster
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970 405-6690