



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JAN 11 2007

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

Mr. William J. Cherepon
Safety, Health and
Environmental Manager
Intertek Caleb Brett
1000 Port Carteret Road Building – C
Carteret, NJ 07008

Ref. No.: 06-0264

Dear Mr. Cherepon:

This is in response to your November 9, 2006 letter regarding training as specified under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your scenario involves the shipment of flammable liquids that have been re-classed as combustible liquids in accordance with § 173.150(f)(1). Specifically, you ask if the training requirements apply to an employee who fills a package containing a combustible liquid that is not subject to the HMR.

The answer is no. For transport by a mode other than vessel or aircraft, a flammable liquid may be re-classed as a combustible liquid in accordance with § 173.150(f)(1) of the HMR. In accordance with § 173.150(f)(2), a combustible liquid is not subject to the HMR when shipped in non-bulk packages (i.e. a maximum capacity of 450 L or a maximum net mass of 400 kg). Thus, the training requirements found in Part 172, Subpart H do not apply if the material is re-classed as a combustible liquid and transported in non-bulk quantities.

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

Sincerely,

Hatie Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials, Standards



060264

172.704
173.150(f)

Intertek Caleb Brett

November 9, 2006

Mr. John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Satterthwaite
\$172.704
\$173.150 (f)

Training
06-0264

Dear Mr. Gale:

I am seeking your assistance in providing an answer to the question below. First, it would be beneficial to explain the background to the question.

Intertek Caleb Brett (ICB) is a testing laboratory for fuel products, such as diesel fuels, ultra low sulfur diesel and home heating fuels. This testing is provided, in part, at the consumer level to assure compliance with federal standards.

In order to obtain product representative samples back from consumer outlets to an ICB laboratory for testing, ICB provides return kits comprised of packaging material and packaging closure as well as instruction for return shipment via domestic ground carrier only. The individual packages provide for this consumer testing project includes up to 8 – one ounce (30 mL) French square glass bottles to be filled with diesel fuel. Each of those bottles are sealed and wrapped in absorbent. Four bottles will be placed within a one quart metal can then that in turn is sealed. Up to two cans maximum will be placed within a United Nations certified 4G (fiberboard box). The kits are marked "Not Restricted" and "For Ground Shipment Only".

Under § 173.150(f) the diesel fuel product is above 38° C or 100°F (averaging greater than 125°) and does not meet the definition of any other hazard class, therefore can be reclassified as a combustible liquid. A material classed as a combustible liquid, in this case, diesel fuel in a non-bulk packaging that is not a hazardous substance, hazardous waste, and marine pollutant is not subject to HMR.

Question: Are the individuals at the consumer outlet sector who fill the one ounce bottles exempt from the hazmat training requirement if § 173.150(f) is declared?

I appreciate your assistance in this matter and look forward to your assistance. My contact information is listed below.

Sincerely,



William J. Cherepon
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