



Your Statement Dated: 07-24-06

July 25, 2006

Mr. Jeremy Denton
Executive Director
Filter Manufacturers Council
P O Box 13966,
Triangle Park, NC 27709-3966

Re: Filtration Products - Docket 2006-3, Subjects 6 & 7

Dear Mr. Denton:

Reference is made to your recent correspondence relating to the upcoming NCC Classification Panel meeting and the two proposals to be heard on the subject of filters. The matter is scheduled to be heard on Monday, August 7, 2006, at the Fairmont Chateau Whistler, British Columbia, CN. Our purpose here is to point out a misstatement or mischaracterization in your July 24 letter alleging the elimination of stowability, handling and liability from the classification process. Rest assured that nothing could be further from the truth.

It is highly important (and frankly, encouraging) to have all shippers, and in this particular instance your industry group, participating in the classification process. It is incumbent on all parties involved to be heard and to comment – either pro or con, to the merits of the proposal while addressing the critical elements that comprise *classification-making*. In this regard, when evaluating commodities in connection with the assignment of classes, the NCC and its Classification Panels must consider the four transportation characteristics of density, stowability, handling and liability, as set forth in MC-98 (Sub-No. 1), *Investigation Into Motor Carrier Classification*. In this respect, it has been well established through numerous administration decisions that, absent any unusual or significant stowing, handling or liability characteristics, density is of prime importance in the assignment of classes. (Emphasis added.) It is the pre-eminent characteristic.

The density guidelines are used in the assignment of classes and the density/class relationships set forth in the guidelines presume that the other three transportation characteristics are neutral, i.e., that there are no unusual or significant stowability, handling or liability characteristics. With respect to stowability, the majority of shipments tendered to general commodity carriers are comprised of packaged freight that stows well in carriers' equipment. Some articles, however, present additional stowability considerations such as excessive weight or length, inability to top load or around other freight, etc. In review, the factor of stowability was negligible in this case.

As with stowability, most freight tendered to general commodities carriers does not present substantial handling problems. The packaged freight that comprises the majority of shipments is readily handled by dock personnel, often with the aid of mechanical equipment. In evaluating docket proposals or classification reports, the NCC and its Classification Panels must consider ease or difficulty of handling and the impact of such on the transportability of the involved commodity group. Likewise, the factor of handling was considered negligible or not unusual.

Denton

July 24, 2006

Last, pursuant to the MC-98 (Sub-No. 1) decisions, the liability characteristic includes susceptibility to theft, liability to damage, propensity to damage other freight, perishability, propensity to spontaneous combustion or explosion, and value per pound. Where the other liability elements are found to present no substantial problems or concerns, value per pound is of less significance. Such is the case here.

Mr. Denton, at every stage in this proceeding – from the first posting of this matter on Docket 2006-1, Subject 7 (February, 2006) to our current situation, we have made it a point to acknowledge the aspects of the ‘other transportation characteristics’ besides density. In fact, in our last report¹ prepared for the May 2, 2006 Panel meeting in Arlington, VA, we specifically addressed the issue on page 6 of the addendum. The report, while summarizing the industry’s stance in the penultimate paragraph, also acknowledges FMC’s position, “that filter products do not have the adverse characteristics related to stowability, handling and liability, and are very low risk to handle in transport operations.” Further, these elements are explicitly addressed on page 4 of the addendum as follows:

Stowability: Source data indicates that most of these products move in fibreboard boxes while larger units may be on skids or pallets, which usually require mechanical handling.

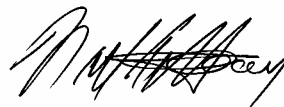
Handling: Products shipped in fibreboard containers and on pallets should not pose any notable handling problems as they may be loaded and unloaded with the aid of mechanical equipment.

Liability: The commodities are generally not susceptible to theft. They are not perishable, and are not susceptible to spontaneous combustion or explosion. There is no indication that filters or cartridges have the propensity to damage other freight, nor is there evidence that they are unusually prone to be damaged by freight with which stowed. NCC files are generally devoid of any information relative to claims or value – save for oil filters, which are shown to average \$6.96 per pound.

Again, we are encouraged and, indeed, thankful for the Council’s involvement in these proceedings and the development of the necessary data to afford a full and proper consideration of the merits in this instance. Our purpose here is merely to offer clarification and, and really, emphasize that ALL matters to come before a Panel must be reviewed in light of ALL four transportation characteristics. We simply want to reassure you that the other characteristics involving stowing, handling and liability have not been overlooked in any of our analyses or reports.

Very truly yours,

NATIONAL CLASSIFICATION COMMITTEE



Dan Horning
Senior Classification Specialist

¹ Docket 2006-2, Review Matter T