U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

DEC 12 2003

Mr. Frank Bruckmann
418 West Rock Avenue
New Haven, CT 06515

Ref. No. 03-0308

Dear Mr. Bruckmann:

This is in response to your letter dated November 25, 2003 and corresponding interaction with Ben Supko, requesting clarification on whether your Windsor and Newton oil paint with a flashpoint of 446°F (230°C) is regulated under the Hazardous Materials Regulations (HMR: 49 CFR Parts 171-180). Specifically, you would like a letter confirming your conclusions that these materials are not hazardous and therefore should not be confiscated at the gate by Transportation Security Administration (TSA) officials when boarding an aircraft.

Under § 173.22 of the HMR, it is the shipper's responsibility to properly classify a hazardous material. This office generally does not perform this function. However, according to the information you have provided, we agree that these oil paints do not meet the criteria found in § 173.120 for flammable or combustible liquids. Further, from your conversation with Mr. Supko and after viewing the Materials Safety Data Sheets for the paints, we do not believe that they meet any of the hazard classes defined in Part 173 of the HMR. From the information you have provided, it is our opinion that these paints should not be classified as hazardous materials.

The Transportation Security Administration (TSA), the agency responsible for security in all modes of transportation, including civil aviation, has the authority to restrict passengers from carrying materials perceived as security threats. Therefore, TSA officials may confiscate materials that they believe to be security risks even if the materials are not classified as hazardous under the HMR. To be sure that your paints will not be confiscated, you should contact TSA prior to your trip.

I hope this satisfies your request.

Sincerely,

Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards

173.173

030308

Supko
§173.173
Paint
03-0308

Edward Mazzullo
Director of OHMS
US DOT/RSPA (dhm-10)
400 7th Street SW
Washington, DC 20590

November 25, 2003

Dear Mr. Mazzullo:

As a professional artist and oil painter, I would like to take my oil paints with me on a flight to the French West Indies over the Christmas holidays. After speaking to the TSA, and the Haz Mats Department, they have made it clear that while oil paints are neither on the lists of being permissible nor prohibited, they are sometimes confiscated at the gate upon boarding the aircraft, depending on the person checking baggage. I fully understand that solvents are not allowed and definitely will not be bringing them.

I was then recommended to contact you, because I understand that you could supply me with a letter that would allow me to travel with my oil paints, and I would be able to work with them when reaching our destination. Would you please send this documentation to me at the following address:

Frank Bruckmann
418 West Rock Avenue
New Haven, CT 06515

or Email:
fbruckmann@earthlink.net

Because having the oil paints is so important to me, I was hoping to get some sort of documentation from you, so I wouldn't have to risk their potential loss.

Attached you will find some information about the oil paints themselves. My flight is just before Christmas, on December 22nd, and returning December 30th. If you need further information, flight numbers or times, please call me at (203) 389-5865 or email me at fbruckmann@earthlink.net I hope there is enough time to take care of this. Thank you in advance for your cooperation.

Sincerely,

Frank Bruckmann

WINSOR & NEWTON

Artists' Oil Colour

Cadmium Yellow

108
Permanence A
Series 4

Jaune de Cadmium
Kadmiumgelb
Amarillo de Cadmio
Giallo di cadmio

120 ml ℮
4 U.S.fl.oz.

Pigment: Cadmium Z
Sulphide PY35
Vehicle: Safflower O

Conforms to
ASTM D 4236

WARNING: DO NOT SPRAY APPLY. This product contains cadmium, a chemical known to the State of California to cause cancer by means of inhalation.

1230 108
Made in England by Winsor & N
London HA3 5RH. Tel: 0181-4Z