



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

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

MAY 2 2001

Reference No.: 01-0053

Mr. Ken Sumner  
President  
KWS Training  
P. O. Box 562  
Carrboro, NC 27510

Dear Mr. Sumner:

This is in response to your February 14, 2001 letter requesting clarification on the provisions for transporting materials of trade (MOTs) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Your questions are paraphrased and answered as follows:

Q1. Company A, a research and development company, occasionally must move researchers from one facility to another located within the same state. The researchers' needed chemicals are packed in boxes and transported from one laboratory to another using trucks leased by Company A and driven by Company A employees.

A1. One criterion for a material of trade is that a hazardous material is transported by a private carrier in direct support of its principal business which may not be transportation by motor vehicle. If the hazardous materials transported between Company A's facilities are used to support the business, and provided all conditions of § 173.6 are met, the materials of trade exception applies.

Q2. Company B must transport many different chemicals for a variety of reasons between several of their research and manufacturing sites. The chemicals are used by Company B in furtherance of their principal business, and are being transported between sites on leased trucks. The trucks are driven by Company B employees as well as contract employees from Company C. Can Company C drivers transport qualifying items as materials of trade?

A2. In the case of Company C in this scenario, the hazardous materials are not being transported in direct support of Company C's principal business; therefore, the MOTs exceptions do not apply to the transportation of hazardous materials by a Company C driver.

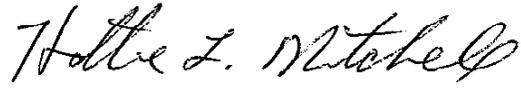


010053

173.6

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned above the typed name.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



PO Box 562 Carrboro NC 27510  
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Corbin  
§173.6  
MOT  
(EXCEPTIONS)  
01-0053

2/14/01

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards  
U.S. DOT/RSPA (DHM-10)  
400 7<sup>th</sup> Street S.W.  
Washington DC 20590-0001

Dear Mr. Mazzullo,

As a trainer in the field of hazardous materials transportation I often run into unusual situations when assisting clients with regulatory issues. Two such examples are outlined below and your assistance in resolving them would be greatly appreciated. Both involve the use of the Materials of Trade exception (173.6).

Question 1: Company A has several research and development laboratories within the same state. Company A's principle business is research and development. Occasionally researchers must be moved between facilities to continue a particular line of investigation. All needed chemicals are removed from the researcher's old laboratory, packed in boxes and transported to the new laboratory. Transport is in trucks leased by Company A and driven by Company A employees. If all other provisions of 173.6 are met could these materials qualify as Materials of Trade?

Question 2: Company B has several local research and manufacturing sites. Many different types of chemicals must be moved for a variety of reasons between these sites. Examples include experimental materials needing testing, maintenance supplies like paints and cleaners, solvents for laboratory use and product for final preparation. All the materials are used by Company B in furthering its principle business. Company B has leased trucks for these local deliveries. Company B employs some drivers but has contracted with Company C to provide additional drivers. The drivers from Company C exclusively pick-up and deliver for Company B and drive only the leased vehicles. If all other provisions of 173.6 are met can the drivers for Company C transport qualifying items as materials of trade for these local deliveries?

Your interpretation would be most helpful.  
Regards,

Ken Sumner  
President