



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

MAY 18 2005

Mr. Randy Hill
President
Chemtran Services USA, Inc.
5722 Edward Drive
Houston, Texas 77032

Ref. No. 05-0096

Dear Mr. Hill:

This responds to your March 30, 2005 letter requesting clarification on the materials of trade (MOTS) exception in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a hazardous materials shipping company that prepares and transports samples under contract for a laboratory qualifies for the MOTS exception.

According to your letter, your company is under contract with various petrochemical manufacturers and laboratories to provide transportation services for hazardous materials shipments. After preparing the hazardous material shipment for transportation, you transport the hazardous material aboard your company-owned vehicles to your repackaging facility. You then review the MSDS, repackage and complete shipping papers for each sample according to International Civil Aviation Organization (ICAO) Technical Instructions requirements. Each sample is distributed via air express to outside laboratories for analysis. You state that you meet the quantity restrictions of § 173.6. You ask whether your company qualifies for the MOTS exception under the definition in § 171.8 for MOTS as a company that transports hazardous materials by a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle.

The answer is no. In accordance with § 171.8, a material of trade is a hazardous material, other than a hazardous waste, that is carried on a motor vehicle: (1) to protect the health and safety of the operator or passengers; (2) to support the operation and maintenance of



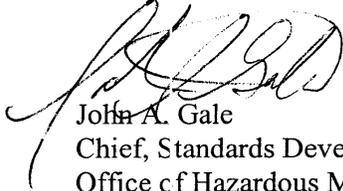
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171.8
173.6

the vehicle; or (3) by a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle. Your company is not a private motor carrier. Therefore, you do not qualify for the MOTS exception.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Gale". The signature is written in a cursive style with a large initial "J" and "G".

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



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§ 171.8
§ 173.6
Materials of Trade
March 30, 2005 05-0096

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (DHM-10)
400 7th Street S.W.
Washington, D.C. 20590-0001

Re: Materials of Trade Clarification 171.8 and 173.6

Hello Mr. Mazzullo,

Chemtran Services USA, Inc. provides contract Sample Packaging Services for petrochemical manufacturers and laboratories. We are committed to compliance with federal, state and local regulations for ourselves and our clients.

Our service contract requires us to arrive daily at the client laboratory, evaluate MSDS, identify hazardous characteristics of products, select the outer packaging, complete package marks and produce shipping papers for those samples. In direct support of the laboratory business, we transport the samples aboard company-owned vehicles to our re-packaging facility. The shipping papers show Chemtran Services USA as consignee of these shipments. We review the product MSDS, re-package and complete shipping papers for each sample according to ICAO requirements. Each sample is distributed via air express to outside laboratories for analysis.

These samples meet the applicable requirements of CFR 49, 173.6. regarding: inner package quantities & outer package weight restrictions.

It seems that we might be able to use CFR 49, 171.8, item (3) for consideration of these samples as Material of Trade from the laboratory to our facility:

.....a hazardous material, other than hazardous waste, that is carried on a motor vehicle-

(3) By a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle.

Can we use the "Material of Trade" exception? Any information you can provide regarding this subject will be greatly appreciated.

Please contact me at randy@chemtranusa.com or via phone: 281 590 9400 with any questions.

Best Regards,

Randy Hill
President
Chemtran Services USA, Inc.
An SBA "HUBZONE" Concern