



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

JUN 12 2007

Ms. Julie Whitted
Sr. EHS Specialist
Boston Scientific Corporation
5905 Nathan Lane
Plymouth, MN 55442

Ref No.: 07-0090

Dear Ms. Whitted:

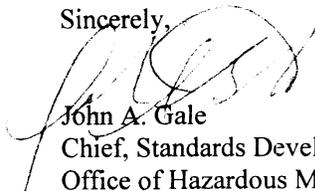
This is in response to your April 27, 2007 letter regarding the use of the materials of trade (MOTs) exception under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). According to your letter, your company transports hazardous materials between company owned facilities in a company owned vehicle operated by a company employee for the purpose of storage, research and development, or production-related activities. You further state that the principal business of your company is not transportation by motor vehicle. You ask if transportation of hazardous materials in this manner satisfies the definition of "material of trade" in § 171.8, thereby making the shipment of these materials eligible for the MOTs exception specified in § 173.6.

The definition of "material of trade" in § 171.8 is a hazardous material, other than a hazardous waste, that is carried on a motor vehicle: (1) for the purpose of protecting the health and safety of the motor vehicle operator or passengers; (2) for the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or (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.

The transportation you describe meets criteria (3) in the definition of "material of trade," provided the hazardous material is not a hazardous waste. Therefore, your company may use the exception in § 173.6 provided the hazardous materials are prepared and offered for transportation in accordance with the requirements specified in § 173.6.

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

Sincerely,



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



070090

**Boston
Scientific**

APR 27 2007
07:00-09:00

Eichenlaub
§171.8
MOT
07-0690

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April 27, 2007

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Safety
400 7th St., S.W.
Washington, DC 20590

Re: Materials of Trade

Dear Sir/Madame:

The Boston Scientific Cardiovascular Minnesota division (BSC) is formally requesting an interpretation to the Materials of Trade exemption as published in Title 49 CFR Section 171.8. BSC has 3 facilities located within 10 miles of each other operating as individual plants with operations that support business activity at each location. There are several occasions where hazardous materials need to be transferred from one facility to another for the purpose of storage, research and development (R&D), or production related activity.

The principle business of BSC is not transportation and a company owned and operated truck (private motor carrier) as defined in 171.8(3) along with a full time BSC employee is utilized for all business related transportation of material between BSC locations.

We are requesting an interpretation to determine if the materials that will be transported between BSC facilities meets the definition of Materials of Trade as listed in 49 CFR Section 171.8 – specifically paragraph (3) where the definition states that “By a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle.” The transfer of hazardous material between facilities is for reasons stated above and limited to the support of research and development functions or to supply material to a facility in support of production demands.

It is our belief that the hazardous material being transported between BSC facilities meets the definition of a Material of Trade based on the information provided in the statements above. Note that all hazardous materials currently being offered for transportation between BSC facilities is being transported in

Boston Scientific

accordance with all of the Hazardous Materials Transportation rules and BSC will continue to do so until the interpretation response is received and is in agreement with our interpretation of the rule. We look forward to your response and interpretation to this rule.

Sincerely,



Kristi A. Ross
Sr. EHS Specialist
Boston Scientific Corporation



Julie Whitted
Sr. EHS Specialist
Boston Scientific Corporation