



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

DEC 11 2012

Mr. Norman Dodson  
Occidental Chemical Company  
6200 South Ridge Road  
Wichita, KS 67026

Reference No. 12-0208

Dear Mr. Dodson:

This is in response to your September 14, 2012 e-mail requesting clarification of the exceptions for Materials of Trade (MOTs) under § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you state that to analyze the quality of the chemicals your company supplies to its customers, these customers send samples of these chemicals in amounts of one pint or less to your company for testing.

You state customers return the following materials to your company for testing:

- 1) UN 1496 Sodium Chlorite, 5.1 (oxidizer), PG II
- 2) UN 1593 Dichloromethane, 6.1 (poisonous), PG III
- 3) UN 1789 Hydrochloric acid, 8 (corrosive), PG II and III
- 4) UN 1846 Carbon tetrachloride, 6.1, PG II
- 5) UN 1888 Chloroform, 6.1, PG III
- 6) UN 1897 Tetrachloroethylene, 6.1, PG III
- 7) UN 1908 Chlorite solution, 8, PG II and III (the primary material being shipped)

You also state some of your customers do not have employees trained to prepare and offer hazardous materials for transport in conformance with the HMR, but a carrier informed you that your customers can transport their chemicals as MOTs by motor vehicle to the carrier for its staff to properly package and transport because your customers are not transporting the samples for commercial purposes. You ask if this statement is correct. The answer is no. A "Material of trade" 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 (see § 171.8). Your customers are transporting chemical samples to the carrier solely for the purpose of offering them for transportation in

commerce, not to perform tasks that are in direct support of a business that is other than transportation by motor vehicle, criteria (3) in the definition of "material of trade." Therefore, the chemicals must be transported under other provisions in the HMR authorized for the specific hazards each sample contains at the time it is offered for transportation.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and has a long, sweeping horizontal line extending to the right.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

Edmonson  
§173.6

**Drakeford, Carolyn (PHMSA)**

**From:** INFOCNTR (PHMSA)  
**Sent:** Monday, September 17, 2012 2:35 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Request for formal letter of interpretation

Materials of Trade  
12-0208

**Importance:** High

Carolyn,

We received the following request for a formal letter of interpretation.

Thanks,  
Victoria

-----Original Message-----

**From:** [Norman Dodson@oxy.com](mailto:Norman_Dodson@oxy.com) [[mailto:Norman\\_Dodson@oxy.com](mailto:Norman_Dodson@oxy.com)]  
**Sent:** Friday, September 14, 2012 4:20 PM  
**To:** INFOCNTR (PHMSA)  
**Subject:** Request for formal letter of interpretation  
**Importance:** High

I would like to request a formal letter of interpretation regarding 49 CFR 173.6 Materials of trade exceptions.

My company sells commodity chemicals to other companies. On occasion, questions arise regarding the quality of this product making it necessary for the customer to need to ship a small sample ( 1 pint or less) to us for follow up analyses. Problems arise when the customer does not have trained and certified people to prepare and offer for shipment, these hazardous products. The next choice would be for them to take this one pint sample to a company that offers these services. An example of such a company would be AirPack Inc. A problem may exist with this option if an employee of the customer company places the sample in a motor vehicle and drives it to the packaging company. I have been told by AirPack Inc., that they could lawfully do this under 49 CFR 173.6 as long as the container was of the proper integrity and secured from shifting. The reasoning being that the customer is not transporting the samples over the road for commercial purposes. The one pint chemical samples that these customers would be transporting would be the following:

Chloroform // UN1888 // Toxic // 6.1 // PG III Dichloromethane // UN1593 // Toxic // 6.1 // PG III Tetrachloroethylene // UN1897 // Toxic // 6.1 // PG III Carbon Tetrachloride // UN1846 // Toxic // 6.1 // PGII Sodium Chlorite // UN1496 // Oxidizer // 5.1 // PGII  
Chlorite Solution // UN1908 // Corrosive // 8 // PGII & III (This would be the primary one shipped)  
Hydrochloric Acid // UN1789 // Corrosive // 8 // PG II & III

We would like to be able to advise these customers that they can legally transport these samples to a certified hazmat packager for preparation for shipping. However, we need to know that we are interpreting this correctly. Your prompt attention to this request would be greatly appreciated. You may send the letter to my attention at this email address, or if you need to send it by regular mail delivery, the address is:

Attn: Norman Dodson  
Occidental Chemical Co.  
6200 South Ridge Road  
Wichita, KS 67026

Thanks and best regards.

Norman Dodson  
Technical Services  
OxyChem  
Office: 316-529-7577  
Fax: 713-985-1507  
[norman\\_dodson@oxy.com](mailto:norman_dodson@oxy.com)

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