



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

JUN 28 2000

Mr. Leo N. Richard Jr.  
Chemical Hygiene Supervisor  
Merichem Company Research Center  
1503 Central  
Houston, Texas 77012-2797

Ref. No: 00-0141

Dear Mr. Richard:

This is in response to your letter of May 2, 2000, requesting clarification on the requirements for Materials of Trade (MOTs) under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You provide the following scenario and ask whether the MOTs exception may be applied.

From time to time "samples" must be transported to an independent analytical laboratory for various analyses. Could a Merichem Research Center employee transport the samples to the laboratory? After analyses are completed, could a Merichem employee transport the samples back to the Merichem Research Center? All requirements in § 173.6 are met.

The answer is yes. A Merichem Research Center employee may transport samples to and from a laboratory in direct support of their business when in private carriage.

I hope this information is helpful.

Sincerely,

Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards



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# MERICHEM COMPANY

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May 2, 2000

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, D.C. 20590-0001

*Laubelle*  
*§173.6*  
*00-0141*

Dear Mr. Mazzullo:

A review of 49 CFR 173.6 (Materials of Trade) clarifications revealed scenarios similar to those found at my facility. These scenarios involved transportation of hazardous materials between or to company facilities by company employees. While my interpretation of 173.6 and subsequent instruction to employees agrees with published clarifications, questions have arisen that require additional clarifications.

From time to time, Merichem Research Center "samples" must be transported to independent analytical laboratories for various analyses. The "samples" are, by definition, hazardous materials but fall into the classes or divisions eligible for Materials of Trade consideration. In addition, Materials of Trade quantity limits are not exceeded and Merichem Research Center's principal business is not transportation by motor vehicle. Could a Merichem Research Center employee transport a "sample" as a Material of Trade to an independent analytical laboratory? After analyses are completed, could a Merichem Research Center employee transport a "sample" as a Material of Trade from an independent analytical laboratory back to Merichem Research Center?

Regarding the first scenario in which a Merichem Research Center employee transports a "sample" to an independent analytical laboratory, I have instructed employees that the Materials of Trade exception does not apply. My reasoning is based upon the interpretation that, while the analytical results are of benefit to Merichem Research Center, transport of the "sample" is actually in direct support of the principal business of the analytical laboratory. On the other hand, I have instructed employees that the Materials of Trade exception applies to the second scenario in which a Merichem Research Center employee transports a "sample" from the analytical laboratory. In this case, return of the "sample" is required for further work and, consequently, support of Merichem Research Center's principal business.

Thank you in advance for clarifications regarding the application of the Materials of Trade exception to these two scenarios.

Sincerely,

*Leo N. Richard Jr., CHMM*

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Chemical Hygiene Supervisor  
Merichem Company Research Center