



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JUN - 8 2000

Mr. John Pittas
Operations Manager
Layne-Atlantic
P.O. Box 2676
Eaton Park, FL 33840-2676

Ref. No. 00-0124

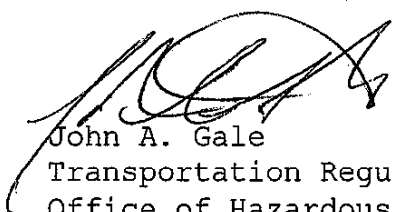
Dear Mr. Pittas:

This is in response to your letter dated April 14, 2000, regarding the materials of trade exception under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask if Oxygen and Acetylene cylinders each weighing less than 100 kg (220 pounds) used in direct support of field construction projects may be considered materials of trade.

The answer is yes. Oxygen and Acetylene cylinders transported on your company's vehicles to support the business may be transported as materials of trade if all the provisions of § 173.6 are met.

I hope this satisfies your request.

Sincerely,


John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



000124

173.6

Layne-Atlantic

a division of Layne Christensen Company

P.O. Box 2676 • Eaton Park, Florida 33840-2676 • Phone: (941) 666-2433 • Fax: (941) 665-2196

April 14, 2000

BAH
S 173.6
00-0124

US Department of Transportation
Office of Hazmat Standards
DHM 10
400 7th Street SW
Washington, D.C. 20590

Ref: Materials of Trade Exemption

To whom it may concern,

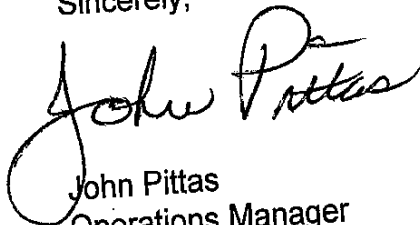
My company's service trucks carry one cylinder of Oxygen (277 cubic ft) and one of Acetylene (150 cubic feet) vertically and properly secured. These cylinders are equipped on the trucks to perform various field construction projects.

It is our understanding that the small amount being transported fall under the "Materials for Trade" category which exempts us from completing daily bills of lading. I have attached a section referring to this that we retrieved from the internet and would appreciate your comments and confirmation in writing on this for our Company's Safety Department.

Thank you for your anticipated assistance and if you should have any questions, please do not hesitate to contact me directly at (863) 666-2433.

The written response can be forwarded to my attention at Layne Atlantic, P.O. Box 2676, Eaton Park, FL 33840-2676.

Sincerely,


John Pittas
Operations Manager



[Code of Federal Regulations]
[Title 49, Volume 2, Parts 100 to 185]
[Revised as of October 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 49CFR173.6]

[Page 360-361]

TITLE 49--TRANSPORTATION

CHAPTER I--RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF
TRANSPORTATION

PART 173--SHIPPERS--GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS--Table of Con

Subpart A--General

Sec. 173.6 Materials of trade exceptions.

When transported by motor vehicle in conformance with this section, a material of trade (see Sec. 171.8 of this subchapter) is not subject to any other requirements of this subchapter besides those set forth or referenced in this section.

(a) Materials and amounts. A material of trade is limited to the following:

(1) A Class 3, 8, 9, Division 4.1, 5.1, 5.2, 6.1, or ORM-D material contained in a packaging having a gross mass or capacity not over--

(i) 0.5 kg (1 pound) or 0.5 L (1 pint) for a Packing Group I material;

(ii) 30 kg (66 pounds) or 30 L (8 gallons) for a Packing Group II, Packing Group III, or ORM-D material;

(iii) 1500 L (400 gallons) for a diluted mixture, not to exceed 2 percent concentration, of a Class 9 material.

(2) A Division 2.1 or 2.2 material in a cylinder with a gross weight not over 100 kg (220 pounds), or a permanently mounted tank manufactured to ASME standards of not more than 70 gallon water capacity for a non-liquefied Division 2.2 material with no subsidiary hazard.

(3) A Division 4.3 material in Packing Group II or III contained in a packaging having a gross capacity not exceeding 30 ml (1 ounce).

(4) This section does not apply to a hazardous material that is self-reactive (see Sec. 173.124), poisonous by inhalation (see Sec. 173.133), or a hazardous waste.

(b) Packaging. (1) Packagings must be leak tight for liquids and gases, sift proof for solids, and be securely closed, secured against movement, and protected against damage.

(2) Each material must be packaged in the manufacturer's original packaging, or a packaging of equal or greater strength and integrity.

(3) Outer packagings are not required for receptacles (e.g., cans and bottles) that are secured against movement in cages, carts, bins, boxes or compartments.

(4) For gasoline, a packaging must be made of metal or plastic and conform to the requirements of this subchapter or to the requirements of the Occupational Safety and Health Administration of the Department of Labor contained in 29 CFR 1910.106(d)(2) or 1926.152(a)(1).

(5) A cylinder or other pressure vessel containing a Division 2.1 or 2.2 material must conform to packaging, qualification, maintenance, and use requirements of this subchapter, except that outer packagings are not required. Manifolding of cylinders is authorized provided all valves are tightly closed.

(c) Hazard communication. (1) A non-bulk packaging other than a cylinder (including a receptacle transported without an outer packaging) must be marked with a common name or proper shipping name to identify

the material it contains, including the letters "RQ" if it contains a reportable quantity of a hazardous substance.

(2) A bulk packaging containing a diluted mixture of a Class 9 material must be marked on two opposing sides with the four-digit identification number of the material. The identification number must be displayed on placards, orange panels or, alternatively, a white square-on-point configuration having the same outside dimensions as a placard (at least 273 mm (10.8 inches) on a side), in the manner specified in Sec. 172.332 (b) and (c) of this subchapter.

(3) A DOT specification cylinder (except DOT specification 39) must be marked and labeled as prescribed in this subchapter. Each DOT-39 cylinder must display the markings specified in 178.65(i).

(4) The operator of a motor vehicle that contains a material of trade must be informed of the presence of the hazardous material (including whether the package contains a reportable quantity) and must be informed of the requirements of this section.

(d) Aggregate gross weight. Except for a material of trade authorized by paragraph (a)(1)(iii) of this section, the aggregate gross weight of all materials of trade on a motor vehicle may not exceed 200 kg (440 pounds).

(e) Other exceptions. A material of trade may be transported on a motor vehicle under the provisions of this section with other hazardous materials

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without affecting its eligibility for exceptions provided by this section.

[Amdt. 173-259, 62 FR 1216, Jan. 8, 1997; as amended by Amdt. 173-262, 62 FR 49566, Sept. 22, 1997; 62 FR 51560, Oct. 1, 1997; Amdt. 173-259, 63 FR 8142, Feb. 18, 1998; 63 FR 52849, Oct. 1, 1998]