



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

JUN 16 2000

Mr. Andrew N. Romach  
Regulatory Compliance Officer  
Radian International  
P.O. Box 13000  
Research Triangle Park  
North Carolina 27709

Ref. No. 00-0142

Dear Mr. Romach:

This is in response to your letter dated May 4, 2000, requesting clarification on the materials of trade (MOTS) exception in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You presented two scenarios and would like confirmation that the MOTS exception applies.

Your scenarios are paraphrased and answered as follows:

Scenario #1: A manufacturer of heating and air conditioning equipment operates several distribution centers (retail sale) where service technicians and other customers obtain parts to service and maintain the manufacturer's equipment. Some of the available parts meet the definition of a hazardous material. Occasionally, one of the distribution centers will run out of a part and an employee from another distribution center will drive over to resupply the center with the part. If the required part were a hazardous material, would the employee who drives the part across town be able to take advantage of the MOTS exception so long as the transported item meets the inner container limits?

Scenario #2: A manufacturer of automobiles operates several distribution centers (wholesale) where manufacturer's authorized parts required to repair and maintain the automobiles are distributed to authorized dealerships (retail sale). Some of the available parts meet the definition of a hazardous material. Occasionally, a center or dealership will run out of a part, and an employee from a nearby distribution center will drive over to resupply them with the part. If the required part were a hazardous material, would the employee who drives the part across town be able to take advantage of the MOTS exception so long as the transported item meets the inner container limits?



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173.6

The described hazardous materials in both scenarios meet the definition for MOTS (§ 171.8). Provided all conditions in § 173.6 are met, the MOTS exception may be applied to your two scenarios.

I hope this answers your inquiry.

Sincerely,



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



May 4, 2000

Mr. Ed Mazzullo, Director  
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Research and Special Programs Administration  
U.S. Department of Transportation  
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Dear Mr. Mazzullo:

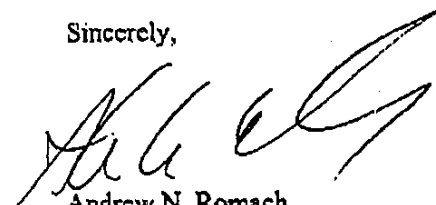
I am writing to you to request a written regulatory interpretation concerning whether or not the Materials of Trade exception (49 CFR 173.6) would apply to the following two scenarios:

Scenario #1: A manufacturer of heating and air conditioning equipment operates several distribution centers (retail sale) where service technicians and other customers obtain parts to service and maintain the manufacturer's equipment. Some of the available parts meet the definition of a hazardous material (for example, certain lubricants, sealants, paints, refrigerants). In some instances, distribution centers are located within driving range of each other. Occasionally, one of the distribution centers will run out of a part, and an employee from another distribution center will drive over to resupply the center with the part. If the required part were a hazardous material, would the employee who drives the part across town be able to take advantage of the Materials of Trade exception so long as the transported item meets the inner container limits?

Scenario #2: A manufacturer of automobiles operates several distribution centers (wholesale) where manufacturer's authorized parts required to repair and maintain the automobiles are distributed to authorized dealerships (retail sale). Some of the available parts meet the definition of a hazardous material (for example, certain lubricants, sealants, paints, refrigerants). The manufacturer also operates centers where automobiles are prepared for sale. In some instances, centers and dealerships are located within driving range. Occasionally, a center or dealership will run out of a part, and an employee from a nearby distribution center will drive over to resupply them with the part. If the required part were a hazardous material, would the employee who drives the part across town be able to take advantage of the Materials of Trade exception so long as the transported item meets the inner container limits?

I appreciate your evaluation of these transportation scenarios. If you have any questions, please call me at (919) 461-1220.

Sincerely,



Andrew N. Romach  
Regulatory Compliance Manager  
Radian International

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