



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

AUG 23 2005
Mr. Mark U. DuBois
Reichhold
P.O. Box 13582
Research Triangle Park, NC 27709-3582

Ref No.: 01-0012

Dear Mr. DuBois:

This is in further reference to your letter dated January 5, 2001 and our reply dated February 22, 2001, regarding the materials of trade (MOTs) exception found in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether your sales and technical staff may use the MOTs exception for private delivery of hazardous materials purchased by your customers.

In our February 22, 2001 reply to your letter we indicated that a company that routinely transports and delivers hazardous materials to customers may not take advantage of the materials of trade exception. That interpretation was intended to be consistent with the definition of MOTs provided in § 171.8; however, it actually narrowed the intended scope of the exception. As indicated by more recent interpretations (example enclosed), it is acceptable for companies that routinely transport and deliver hazardous materials to use the MOTs exception. Therefore, provided the hazardous materials meet the MOTs definition in § 171.8 and all applicable conditions in § 173.6, your sales and technical staff may deliver the purchased hazardous materials to your customers using the exception.

I hope this information is helpful.

Sincerely,

Susan Gorsky
Acting Director Hazardous Materials Standards
Office of Hazardous Materials Standards

Enclosure



010012

171.8
173.6 (c) (1)

1/16/01

REICHHOLD

Corporate Headquarters
P.O. Box 13582
Research Triangle Park, NC 27709-3582

McIntyre

§ 171.8

§ 173.6 (c)(1)

Applicability vs Definition

January 5, 2001

01-0012

U.S. Department of Transportation
Research and Special Programs Administration
Office of Hazardous Materials Standards
400 Seventh Street, S.W.
Washington, D.C. 20590

ATTN. Mr. Ed Mazzullo

Dear Mr. Mazzullo:

This letter is a follow-up to a phone conversation I had had with a member of your staff concerning compliance with the Materials of Trade exception covered under 49 CFR, Section 171.8. Assuming that all of the requirements covered under Section 173.6 have been met, would the following activities meet the definition requirements of the Materials of Trade under Section 171.8?

1-A member of our sales or technical force picking up samples of our company's products (meeting the definition of a hazardous material) at a customer's site and transporting them by vehicle to either our manufacturing sites or to our Research and Development facility for analysis.

2-A member of our sales or technical force picking up samples of our company's products (meeting the definition of hazardous material) at our manufacturing sites and transporting them by vehicle to a customer's site. The purpose of this transaction is to obtain customer interest and acceptance of the product.

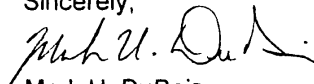
3- A member of our sales or technical force picking up small quantities of our company's product (meeting the definition of a hazardous material) from our manufacturing sites and transporting them by vehicle to the customer's site for the purposes of conducting a trial run of the product on the customer's equipment.

4-A member of our sales or technical force picking up small quantities of our company's commercial product (meeting the definition of a hazardous material) from our manufacturing sites, which have been ordered for purchase by the customer, and transporting them by vehicle to the customer's site. The purpose in this transaction is for expediency of delivery.

I would also like to obtain further clarification of what is meant by "common name" as indicated in subparagraph 173.6(c)(1). Would this include, but not be limited to, trade names, chemical names (i.e. styrene or ethenylbenzene) or, generic chemical names (i.e. amine, solvent, epoxy resin)?

Your assistance in this matter is greatly appreciated.

Sincerely,



Mark U. DuBois
Senior Chemical Regulatory Analyst

Cell
(919) 641-3410