



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JUN 23 2006

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

Ted L. Nebrich, Jr., CHMM, QEP, REM
Technical Director
Waste Technology Services, Inc.
435 North 2nd Street
Lewiston, NY 14092

Reference No. 06-0115

Dear Mr. Nebrich:

This is in response to your March 31, 2006 letter asking us to clarify what is meant by "in direct support of a principal business" under the Materials of Trade (MOTs) exceptions prescribed in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you state your company transports environmental samples for your customers to a laboratory, a treatment storage and disposal facility (TSDF) for analysis and/or treatability studies, or to one location for consolidation and packaging, and you often perform these tasks as a convenience for your clients.

Under the HMR, one of the defining conditions for MOTs is a hazardous material, other than a hazardous waste, transported by a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle. If a business uses its own vehicles and drivers to transport goods to and from customer locations, then the MOTs exception in § 173.6 may be utilized. Since your principal business is not transportation, you may utilize the MOTs exception to transport environmental samples. Note, however, that if you hire a motor carrier to transport goods to and from customer locations, the MOTs exception does not apply.

I hope this information is helpful.

Sincerely,

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards



060115

173.6



WASTE TECHNOLOGY SERVICES INC.

Edmonson
§171.8

§173.6

Definitions/MOT

06-0715

March 31, 2006

Ms. Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
400 Seventh Street, SW
Washington, DC 20590

Dear Ms. Mitchell:

First, I would like to thank you for your timely response to my Materials of Trade exceptions question (enclosed with your response). I would like to follow up these correspondences with a request for a further clarification of one of the points in the Materials of Trade exclusion. Specifically, 49 CFR 171.8, definition of Materials of Trade (3) "...in direct support of a principal business..." As I mentioned in my previous letter, we as environmental consultants, for time to time need to transport said samples to a laboratory or a TSDF for analysis and/or treatability studies. Sometimes even back to a point of consolidation for further packaging and shipment to a laboratory or TSDF. It may not be a necessity (sometimes it can be to retain the business) but more often than not it is a convenience for our clients.

Therefore, under these circumstances would these samples be transported "...in direct support of a principle business" and thus satisfying one criteria of the definition of Materials of Trade?"

If you have any further questions, please do not hesitate to contact me.

Very truly yours,
WASTE TECHNOLOGY SERVICES, INC.

T.L. Nebrich, Jr., CHMM, QEP, REM
Technical Director

TLN/tln

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