

FS No. 37-080-1220

MATERIAL OF TRADE EXCEPTION – BIOLOGICAL SUBSTANCES, CATEGORY B

BACKGROUND

There are instances when government organizations transporting Division 6.2, Biological Substances, Category B meet the U.S. Department of Transportation (DOT) Material of Trade (MOT) exception. An MOT is defined by the DOT as "...a hazardous material...that is carried on a motor vehicle...by a private motor carrier...in direct support of a principal business that is other than transportation by a motor vehicle." The specific requirements for using the MOT exception are stated in the Title 49 Code of Federal Regulations (CFR) Section 173.6.

APPLICABILITY

Biological Substances, Category B (formerly known as diagnostic specimens) are classified by the DOT as a hazardous material when transported in commerce, and is normally required to comply with hazardous materials regulations (HMR) identified in the DOT CFR Title 49. The HMR require that these items be packaged and marked as described in 49 CFR 173.199. However, if the Category B substances are transported by a "private motor carrier" for a noncommercial purpose, then the MOT exception applies and would reduce the regulatory requirements that must be met.

Example. *A correct and proper use of the MOT exception would be to have diagnostic specimens transported in a government vehicle using a government driver from one government location (such as an off-post health clinic) to another government location (such as a government medical treatment facility or government research facility). This purpose is for consolidation or accumulation with other samples generated by that facility for diagnosis or investigation, even if transported across public highways.*

SPECIFICS

The specific requirements from 49 CFR 173.6 are stated in the paragraphs below. The Category B substances must be contained in combination packaging. The combination packaging must have an outer packaging that is strong, securely closed, and secured against movement. The following requirements also apply:

- For liquids, the inner packaging must be leak proof, and the outer packaging must contain sufficient absorbent material to absorb the entire contents of the inner packaging.
- The combination packaging must consist of one or more inner packaging each of which, when filled, does not exceed 0.5 kg (1.1 lb) or 0.5 L (17 oz). The package for transport must weigh less than 4 kg (8.8 lb) and/or have a capacity less than 4 L (1 gal).
- The single inner packaging must not contain more than 16 kg (35.2 lb) or 16 L (4.2 gal) in a single outer packaging.

- The outer packaging must be marked with the words “Biological substance, Category B.”
- The maximum total weight of all the combination packages loaded on one motor vehicle at one time for transportation cannot exceed 200 kg (440 lb).
- The operator of the motor vehicle must be informed of the presence of the hazardous material that is being transported and must know the regulatory specifics (i.e., the ones extracted from the HMR and stated in the paragraphs above).

SUPPORTING INFORMATION

The following definitions and clarifications come from various letters written by the DOT. The DOT has coordinated with transportation experts (for hazardous materials) at the Department of the Army level. These clarifications pertain directly to a private motor carrier and the transport of hazardous materials over the public highways for government missions.

- The transport of hazardous materials in military, government-owned, or government-leased vehicles, operated by military or government personnel solely for noncommercial purposes is not subject to the HMR.
- A private motor carrier is a carrier which transports the business’s own products and does not provide such transportation service to other businesses.
- The application of the MOT exception, as stated in this paper, does not conflict with the Defense Transportation Regulation, DOD 4500.9-R.

Note that the term “diagnostic specimen” was changed to “Biological substance, Category B” in 2006 to align our terms with those utilized by the international community. (This change was posted as a final rule by the DOT on 2 June 2006, effective 1 Oct 2006.)

IMPORTANT DISTINCTIONS

In each of the following examples, the transport is considered “commercial” and the MOT exception does *not* apply. **ALL rules in the HMR apply to these shipments.**

- Government vehicle with government driver transports diagnostic specimens directly from the clinic to a laboratory, which will analyze it under contract with the government.
- The government entity offers to transport hazardous material to commercial carriers.
- The government vehicle is operated by a driver who is a contractor (i.e., not a government employee).