

FS No. 37-081-1220

MATERIAL OF TRADE EXCEPTION – DIVISION 6.1 TOXINS

BACKGROUND

There are instances when government organizations transporting Division 6.1 toxic materials meet the U.S. Department of Transportation (DOT) Material of Trade (MOT) exception. A 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

The DOT classifies Division 6.1 toxic materials as a hazardous material when transported in commerce. Normally, the hazardous material regulations (HMR) require packages containing Division 6.1 toxic materials to be packaged, marked, labeled, and designated on shipping papers as described in various sections of 49 CFR Parts 172 and 173. However, if the Division 6.1 material is 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 include a Division 6.1 Material 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 toxic material must be contained in combination packaging. The combination packaging has an outer packaging that is strong, securely closed, secured against shifting, and protected against damage. The following requirements also apply:

- For liquids, the inner packaging must be leak tight. Packaging must be sift proof for solids. Packaging must be equal to or of greater strength and integrity than the manufacturer's original packaging (if applicable).
- The gross weight of the package must not exceed 0.5 kg (1 lb) or 0.5 L (1 pt) for a Packing Group I material; and must not exceed 30 kg (66 lb) or 30 L (8 gal) for a Packing Group II or Packing Group III material.
- Non-bulk 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.

- The maximum total weight of all materials of trade 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., as stated 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 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.

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).