



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

OCT 29 2007

Mr. Brian Badger
Maintenance Environmental/
Safety Program Manager
AirTran Airways
Hartfield Atlanta International Airport
P.O. Box 45320
Atlanta, GA 30320

Reference No. 07-0190

Dear Mr. Badger:

This is in response to your September 24, 2007 telephone conversation with a member of my staff and your September 27, 2007 letter concerning the Materials of Trade (MOTs) definition and exceptions prescribed in §§ 171.8 and 173.6, respectively, of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You ask if the MOTs exception applies when your employees transport hazardous materials and equipment containing hazardous materials by public road in company-owned and employee-owned motor vehicles, and by aircraft if your employees accompany these materials to their destination. You state these materials and parts will be used to maintain or repair AirTran Airways aircraft and equipment. We have paraphrased your questions and answered them in the order provided.

- Q1. May our employees use company-owned and employee-owned motor vehicles to transport hazardous materials and airplane parts that contain hazardous materials from an off-site location to an airport hangar or gate under the MOTs exceptions prescribed in § 173.6? If we transport these materials by aircraft and our employees accompany these items to their destination, do they qualify for the MOTs exception?
- A1. The MOTs exception applies to transportation in commerce by motor vehicle only on public roads and highways. It does not apply to hazardous materials offered or intended for transportation by aircraft. Therefore, provided all applicable provisions in §§ 171.8 and 173.6 are met, your company may use the MOTs exception to transport hazardous materials and equipment containing hazardous materials in company-owned and employee-owned motor vehicles.

When transporting these materials by aircraft, your company must package and transport them in conformance with the HMR's general requirements for transportation by aircraft prescribed in § 173.27, requirements for carriage of hazardous materials by aircraft



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171.8
173.6

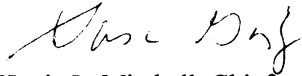
prescribed in Part 175, and any additional applicable requirements specific to the hazardous material. In addition, the HMR authorizes, with certain exceptions, compliance with the International Civil Aviation Organization's (ICAO's) Technical Instructions for the Transport of Dangerous Goods by Air if the hazardous material is offered or intended for transportation by aircraft, and by motor vehicle either before or after being transported by aircraft. These provisions are contained in new Subpart C of Part 171 [72 FR 25161, 5/3/07, Docket No. PHMSA-2005-23141(HM-215F)]. This subpart incorporates and revises the HMR's provisions for the use of international standards that were previously contained in §§ 171.11-171.12a.


Q2. In § 171.8 of the HMR, paragraph (3) in the definition of a MOT includes a "hazardous material, other than a hazardous waste, that is carried in a motor vehicle by a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle." Does this mean that AirTran Airways is considered a private motor carrier when its employees transport MOTs in accordance with the HMR in company-owned and employee-owned motor vehicles?

A2. The answer is yes.

I hope this satisfies your request.

Sincerely,



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



Edmonson
§ 171.8
§ 173.6
Definitions, MOTs
07-0190

September 27, 2007

Mr. Edward Mazzullo, Director
Hazardous Material Standards
U. S. DOT PHMSA
1200 New Jersey Avenue, South East
Washington, DC 20590

Subject: Interpretation of Material of Trade Exception (49 CFR, Section 173.6) and Definition of Material of Trade (49 CFR, Section 171.8),

Dear Mr.: Mazzullo:

We are reviewing our Hazardous Materials Courier program at AirTran Airways and two questions have risen concerning the accuracy of our interpretation of these particular sections of the regulation in regard to our maintenance operations.

If we meet all of the requirements of 49 CFR Section 171.6, (a) Quantities, (b) Packaging and (c) Hazard communication, would the following be considered to comply with the Material of Trade Exception?

1) Hazardous material/airplane parts (all hazardous material and maintenance parts only-we do not ship any other hazardous materials) would be transported (shipped) by a trained employee by our company vehicles and/or personal motor vehicle from and off-site location to the airport hangar or gate prior to placing the material on the aircraft. This person would accompany the transport (all flights in USA). Does this meet the Materials of Trade Requirements?

2) Also, in Section 171.8 General Information, Regulations and Definitions, Definitions and abbreviations, Material of trade means a hazardous material, other than a hazardous waste, that is carried in a motor vehicle, (3); "By a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle". Does this imply that company/personal motor vehicles are considered to be private motor carriers for the airline industry?

Please provide an interpretation for us that would ensure that we are complying with the intent of this regulation.

If you have any questions or need additional information please contact me at 678-254-6299.

Sincerely,

Brian Badger
AirTran Airways
Maintenance Environmental /Safety Program Manager