



U.S. Department  
of Transportation  
Research and  
Special Programs  
Administration

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

JUL 9 1998

Ref. No: 98-0038

Mr. Gary J. Garrahan  
Environmental Engineer  
Digital Audio Disc Corporation  
P.O. Box 3710  
Terre Haute, Indiana 47803-0710

Dear Mr. Garrahan:

This is in response to your letter of April 30, 1998, requesting clarification of the materials of trade (MOTs) exception provided in the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). You presented the following scenario:

Your manufacturing operations consist of two buildings separated by a road with public access. Occasionally you may have a need to transport a small quantity (e.g., 1 gallon of a Class 3, PG II material) from one building to the other. This is not a normal business practice, it would occur only when necessary. The material is transported by a private carrier and is used to directly support your manufacturing process.

The above scenario qualifies for transportation as MOTs provided all requirements in § 173.6 are met.

I hope this satisfies your request.

Sincerely,

Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards



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*Material of trade* means a hazardous material, other than a hazardous waste, that is carried on a motor vehicle-

- (1) For the purpose of protecting the health and safety of the motor vehicle operator or passengers;
- (2) For the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or
- (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.

The fact that the carriage of the hazardous material would be for the purpose of directly supporting our manufacturing process would seem to fit the definition.

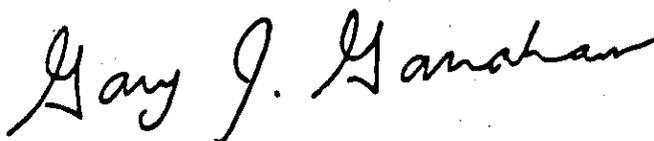
While a scenario such as the one we have described may not have been considered during the development of §173.6, we believe that interpreting §173.6 to include such a scenario does meet the spirit and intent of the exception for the following reasons:

1. The materials in question are in small quantity (thus affording low hazard);
2. They are transported for the sole purpose of supporting a principal business (i.e., manufacturing);
3. The transportation of these materials is infrequent, as it is inefficient to transport such small quantities on a routine basis.

In speaking with Mr. Berger, who stated that he discussed this scenario with several people in your office who helped develop §173.6, it appeared that our interpretation did, in fact, meet the definition of a material of trade, particularly since such transportation would be deemed inefficient, thus occurring infrequently.

We thank you for consideration of our inquiry and look forward to your response.

Sincerely,



Gary J. Garrahan  
Environmental Engineer,  
Digital Audio Disc Corporation