



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

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October 9, 1953

Hon. Bryan Bell, Director  
Motor Transportation Division  
Railroad Commission  
Tribune Building  
Austin, Texas

Opinion No. S-104

Re: Authority of a specialized motor carrier, licensed to transport oil field equipment, to carry certain enumerated commodities used in the maintenance of oil refineries.

Dear Sir:

You have requested the opinion of this office as to whether specialized motor carriers having authority to transport oil field equipment under their certificates may carry hydrated lime and sand in bags to be used in the maintenance of oil refineries.

In 1941, Article 911b, Vernon's Civil Statutes, was amended so as to add a technical statutory definition of the term "oil field equipment", which specialized motor carriers were authorized to transport, and that definition reads as follows:

"Section 1 (1) For the purpose of this Act, the term 'oil field equipment' means and includes machinery, materials, and equipment incidental to or used in the construction, operation, and maintenance of facilities which are used for the discovery, production, and processing of natural gas and petroleum, and such machinery, materials, and equipment when used in the construction and maintenance of pipe lines."

Your inquiry can be resolved by determining whether hydrated lime and sand in bags comes within the definition of "materials", as the maintenance of a refinery is unquestionably within the comprehension of the "processing of natural gas and petroleum."

Webster's New International Dictionary defines "material" as,

"the substance or substances, or the parts, goods, stock, or the like, of which anything is composed or may be made; . . ."

No cases have otherwise defined "materials" as used in the foregoing statute, and within the definition set out above and certainly as accepted in the petroleum industry, we hold that hydrated lime and sand are "materials" within the comprehension of the statutory definition of "oil field equipment."

However, such "materials", under the clear provisions of such statute, must be "incidental to or used in the construction, operation, and maintenance" of such refineries. Sand, we suppose, might normally have some appropriate use in some filter function of a refinery, and hydrated lime is normally used in treating water for cooling towers, but the "use" of the commodities that is actually intended is a fact question to be resolved by the Railroad Commission. The necessity for transporting the sand in bags, instead of in bulk, also requires the judgment of the Commission on a fact issue.

#### SUMMARY

Sand and hydrated lime are "materials" within the definition of "oil field equipment", and are authorized to be transported by specialized motor carriers under Art. 911b, V.C.S., if their carriage is incidental to or used in the construction, operation or maintenance of an oil refinery.

APPROVED:

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Reviewer

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Yours very truly,

JOHN BEN SHEPPERD  
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By   
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