



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

OCT 17 2017

Mike Swick
Operations Manager
The Ohio State University
2650 Kenny Road
Columbus, OH 43210

Reference No. 17-0069

Dear Mr. Swick:

This letter is in response to your June 22, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to government employees transporting hazardous materials for noncommercial purposes. You state the Receiving and Outbound Department, referred to as Central Receiving, acts as a shipment consolidation and distribution center for the Ohio State University campus. Shipments, including those that are hazardous materials, arrive via common carrier. These shipments are loaded and then transported in a motor vehicle by University employees. You seek confirmation of your understanding that the HMR do not apply to employees of the Ohio State University who transport hazardous materials in motor vehicles for noncommercial purposes.

Your understanding is correct. The Ohio State University is a state-run university. In accordance with § 171.1(d)(5), the HMR do not apply to the transportation of hazardous materials in a motor vehicle, aircraft, or vessel operated by a Federal, state, or local government employee solely for noncommercial Federal, state, or local government purposes.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Dodd, Alice (PHMSA)

Baker
§171.1(d)(5)
Applicability
17-0069

From: INFOCNTR (PHMSA)
Sent: Thursday, June 22, 2017 4:02 PM
To: Hazmat Interps
Subject: FW: Letter of Interpretation
Attachments: University of Minnesota PHMSA letter.pdf

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Swick spoke with Edom.

Please let me know if you have any questions.

Thanks,
Jodi

From: Swick, Mike [mailto:swick.72@osu.edu]
Sent: Thursday, June 22, 2017 3:40 PM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: Letter of Interpretation

Dear Sir/Madame,

I am the Operations Manager for the Ohio State University with responsibility for Receiving and Outbound Departments. I would like to request a Letter of Interpretation regarding 49CFR 171.1(d)(5) as it applies to our operation. Receiving and Outbound referred to as Central Receiving acts as a shipment consolidation and distribution center exclusively for the Ohio State University campus including labs and hospital for the business of research and education. Parcels including some hazardous materials are received via common carrier, sorted, and loaded on University vehicles for transport by University employees to their final destination.

Since the Central Receiving operation transports hazardous materials in motor vehicles operated by state employees solely for noncommercial state purposes, we would like confirmation that the HMR do not apply per 49CFR 171.1(d)(5). Even though the regulation may not apply, Central Receiving will continue to provide DOT, HazCom, and other applicable trainings for employees to ensure the safety of employees, students, and the public. Central Receiving provides an important service to the University community by significantly reducing pedestrian exposure to common carrier traffic not familiar with the campus buildings or roads.

If you agree, I would like to receive documentation for our files to be used to satisfy internal audits and for future referenced as needed.

I have attached a letter, Ref. No. 14-0128, dated November, 21, 2014 addressed to the University of Minnesota retrieved from the internet as an example. The second paragraph appears to apply to our operation.

Please contact me if you need additional information or have questions.

Regards,

Mike



Michael R. Swick

Operations Manager – PRSM

Stores & Receiving Building – 210C

2650 Kenny Rd. | Columbus, OH | 43210

614-292-9738

swick.72@osu.edu

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U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

Mr. Michael Maurer
Department of Environmental Health and Safety
University of Minnesota
W-140 Boynton Health Service
410 Church Street S.E.
Minneapolis, MN 55455

NOV 21 2014

Ref. No. 14-0128

Dear Mr. Maurer:

This is in response to your June 3, 2014 letter regarding the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) materials of trade (MOTs) exception. You state that the University of Minnesota-owned Umarket Services (UMS) wants to ship hazardous materials to its warehouse, which operates as a shipment consolidation hub between two campuses with various laboratories and facilities involved in the business of research and education. Shipments of hazardous materials will be transported to and from the warehouse in UMS motor vehicles in support of university work. You ask whether such transportation may be defined in accordance with § 171.8 as MOTs and thus eligible for the MOTs exception under § 173.6.

It is our understanding that the University of Minnesota is a state-run university. As provided in § 171.1(d)(5), the HMR do not apply to the transportation of a hazardous material in a motor vehicle, aircraft, or vessel operated by a Federal, state, or local government employee solely for noncommercial Federal, state, or local government purposes. A state agency (such as a state university) that transports hazardous materials for its own use, using its own personnel and vehicles, is not engaged in transportation in commerce and thus, the HMR do not apply.

For an operation considered in commerce, the scenario you describe would meet the § 171.8 definition of a MOT, in that a hazardous material, other than a hazardous waste, is carried on a motor vehicle by a private carrier in direct support of a business that is other than transportation by motor vehicle. Thus, UMS warehouse transport activities as described above and conducted for commercial purposes would be eligible for the MOTs exception under § 173.6.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Dirk Der Kinderen
Acting Chief, Standard Development
Standards and Rulemaking Division

UNIVERSITY OF MINNESOTA

Twin Cities Campus

*Environmental Health and Safety
Office of Vice President for
University Services*

*W-140 Boynton Health Service
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Date: June 3, 2014

TO: U.S. Department of Transportation, Pipeline and Hazardous
Materials Safety Administration
Office of Hazardous Materials Safety
400 7th St., S.W.
Washington, DC 20590

FROM: Micheal Maurer
Public Health Specialist
Department of Environmental Health and Safety
University of Minnesota

RE: Materials of Trade

Dear Sir/Madame:

The University of Minnesota owned central stores operation, Umarket Services (UMS), is formally requesting an interpretation of the Materials of Trade exception as published in 49 CFR section 171.8.

The University of Minnesota Twin Cities has two campuses located within 5 miles of each other. Each campus houses laboratories and teaching facilities involved in the business of research and education. Often, it is necessary for the labs and facilities to use limited quantities of hazardous materials in support of these activities.

The hazardous materials are ordered from suppliers and shipped via UPS or FedEx to the campus addressees. The University of Minnesota is asking for a letter of interpretation stating that FedEx, UPS and various other carriers may ship hazardous materials to the UMS warehouse as a shipment consolidation hub. It is proposed they will be received, held and then transferred to their final destination in UMS vehicles.

The University of Minnesota is a private motor carrier transporting materials solely for our primary business of research and education and not commercial transportation. No shipments will be repackaged and UMS does have drivers that are trained to transport hazardous goods.

I am requesting an interpretation to determine if the materials that will be transported from the UMS warehouse to the campus research laboratories and teaching facilities meets the definition of the Materials of Trade as listed in 49 CFR 178.8. Specifically paragraph 3 which states "By a private motor carrier in direct support of a principal business that is other than transportation by

UNIVERSITY OF MINNESOTA

motor vehicle.” It is my belief that the hazardous materials transported by UMS to the campus laboratories and teaching facilities meets the definition of Materials of Trade based upon the statements I have made above.

I look forward to your response and interpretation to this rule.

Thank you,

Mike Maurer
Public Health Specialist
Department of Environmental Health and Safety
University of Minnesota