



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

December 22, 2022

Mr. Chris Heminger, CPEA
Senior Partner
Total Compliance, LLC
5859 Morganwood Square
Hillard, OH 43026

Reference No. 22-0064

Dear Mr. Heminger:

This letter is in response to your June 18, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to activities that are not subject to the HMR. Specifically, you state that your client transports hazardous materials by motor vehicle between a facility and a warehouse that it owns, and that the facility and warehouse are on opposite sides of a public road. You further state that whenever hazardous materials are transported between the two buildings, your client marks the public road with yellow hash marks, posts “CAUTION” signs facing each direction of traffic and closes the public road between the facility and warehouse in both directions by placing physical barriers and stop signs. You ask whether your client’s controls—as described in your email—can be considered a “contiguous facility boundary” as referenced in § 171.1(d) (Functions not subject to the requirements of the HMR).

The answer is yes. Based on the information you provided in your email, it is the opinion of this Office that your client’s operation would be considered a contiguous facility boundary as referenced in § 171.1(d)(4) when access to the public road is restricted by signals, lights, gates, or similar controls.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster".

T. Glenn Foster
Chief, Regulator Review and Reinvention Branch
Standards and Rulemaking Division

Wolcott

22-0064

From: [Foster, Glenn \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hillman, Kenetha CTR \(PHMSA\)](#)
Subject: FW: Total Compliance Correspondence
Date: Wednesday, June 29, 2022 2:39:29 PM
Attachments: [EO - Foster\(TotalComp\) 29Jun22.pdf](#)

Alice or Kenetha,

Can you of you have the attached checked in and assigned as a new request for a LOI, please?

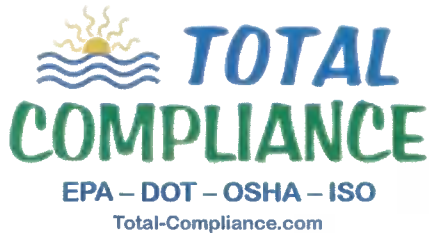
Thanks,
Glenn

From: Lisak, Frank (PHMSA) <frank.lisak@dot.gov>
Sent: Wednesday, June 29, 2022 1:44 PM
To: Foster, Glenn (PHMSA) <Glenn.Foster@dot.gov>
Subject: Total Compliance Correspondence

Hi, Glenn:

The attachment is for your review.

Frank



U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

June 18, 2022

Attention: T. Glenn Foster, Chief, Regulatory Review and Reinvention

Subject: Request for Clarification on 49 CFR 171.1(d)(4) Functions not subject to the requirements of the Hazardous Material Regulations.

Dear Mr. Foster:

We are representing The Tedia Company in Fairfield Ohio. We are requesting that the PHMSA provide an interpretation, by letter, in regard to functions not subject to the requirements of the Hazardous Material Regulations (HMR) found in 49 CFR 171.1(d)(4) based on the Tedia Company's operations described below at the following address:

Tedia Company
1000 Tedia Way
Fairfield, Ohio 45014

The attached map shows Tedia Company's location and property boundary – ATTACHMENT A. The road shown in ATTCHMENT A (Tedia Way) is an industrial park access road that is consigned to normal industrial activity but can be accessed by the public.

Tedia Company manufactures their products in the building on the east side of Tedia Way. These products are DOT Hazardous Materials that typically fall into Hazard Class 3, 8 and 6.1. In the facility on the east side of Tedia Way, employees place the product in UN rated packaging, mark and label the packaging, and secure it to a pallet. For years Tedia Company employees have been using a large forklift to move the pallets (2 at a time) across Tedia Way to the shipping warehouse on the west side of Tedia Way. This activity occurs 2-3 times per hour throughout the day. The products are then prepared for shipment in the warehouse on the west side of Tedia Way and shipped out to customers as a DOT Hazardous Material.

Tedia Company would like to switch to using a box truck to move the product across the street. The box truck would be a small <10,001-pound vehicle dedicated for this activity at the Tedia Company site. This will significantly reduce risk, improve safety and reduce the number of trips across the street.

Tedia Company is prepared to mark the road with yellow hash marks and post two "Caution, Watch For Truck Traffic" signs for both north and southbound traffic on Tedia Way – see enclosed diagram.

Additionally, Tedia Company employees would shut the Tedia Way roadway down by placing barriers (orange barrels, A-Frame Barricade, fold-up barricade etc.) and a stop sign on each side of the crossing therefore stopping traffic on both directions while the Hazardous Material crosses the street.

Examples:



Tedia Company has been in meetings with the City of Fairfield to obtain their agreement to these controls. See the attached diagram – ATTACHMENT A.

We believe the HMR exception provided in 49 CFR 171.1(d)(4) applies to the operations stated above.

171.1(d)(4) Rail and motor vehicle movements of a hazardous material exclusively within a contiguous facility boundary where public access is restricted, except to the extent that the movement is on or crosses a public road or is on track that is part of the general railroad system of transportation, unless access to the public road is restricted by signals, lights, gates, or similar controls.

The facility property is contiguous and is intersected by the industrial park access road - Tedia Way. The portion of Tedia Way in this scenario will be marked and signage will be added indicating a truck crossing. We believe this satisfies the regulation stated above. Since Tedia Way is an industrial park road and the fact that Tedia Company will provide “similar controls” to restrict access to the road during the movement of Hazardous Material across Tedia Way.

Based upon the facts described in this letter, we believe the activity of moving the product across the street is a function that would not be subject to the Hazardous Material Regulations based on controls proposed and the regulation cited above. We request your written interpretation of the application of the cited Hazardous Material Regulation exception to the movement of hazardous material product across Tedia Way within its contiguous property.

If you have any questions concerning this request for interpretation, or need any additional information, please do not hesitate to contact me at the email or telephone number listed below.

Sincerely,

A handwritten signature in blue ink that reads "Chris Heminger".

Chris Heminger, CPEA
Senior Partner
Total Compliance LLC
614-554-0343
chris@total-compliance.com