



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

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

**JUN 29 2010**

Ms. Jill C. Santacroce  
Biosafety/Biosecurity Specialist  
Battelle National Biodefense Institute (BNBI)  
110 Thomas Johnson Drive, Suite 200  
Frederick, MD 21702

Ref. No. 10-0069

Dear Ms. Santacroce:

This responds to your e-mail regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to hazmat functions performed by a commercial entity on Federal property. Specifically, you ask whether the transportation of regulated hazardous materials conducted by a commercial business entity between facilities located solely on a Department of Defense military installation is subject to the HMR.

Based on the information you provided, the answer is no. The HMR govern the transportation of hazardous materials in intrastate, interstate, and foreign commerce. Under § 171.1(d)(4), the transportation of hazardous materials exclusively on Federal property, to which signs, gates and guard stations prevent public access, is not subject to the HMR.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Mitchell', written over a horizontal line.

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

Stevens  
§ 171.1  
Applicability  
10-0269

**Drakeford, Carolyn (PHMSA)**

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**From:** Stevens, Michael (PHMSA)  
**Sent:** Tuesday, March 23, 2010 1:09 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Applicability of 49 CFR 171.1 Applicability of the Federal hazmat regulations

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**From:** Santacroce, Jill C [mailto:santacrocej@nbacc.net]  
**Sent:** Monday, March 08, 2010 10:13 AM  
**To:** Stevens, Michael (PHMSA)  
**Subject:** RE: Applicability of 49 CFR 171.1 Applicability of the Federal hazmat regulations

Thank you Mike – yes, all the below is fine. Management just wants to make sure that what Fort Detrick has in place as far as “restricted access” meets what DOT regards as such. I appreciate all your help in this! Thanks again, Jill

*Jill C. Santacroce  
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[santacrocej@nbacc.net](mailto:santacrocej@nbacc.net)*

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**From:** michael.stevens@dot.gov [mailto:michael.stevens@dot.gov]  
**Sent:** Monday, March 08, 2010 9:46 AM  
**To:** Santacroce, Jill C  
**Subject:** RE: Applicability of 49 CFR 171.1 Applicability of the Federal hazmat regulations  
**Importance:** High

Good morning Jill. I can put that in writing for you, signed, on agency letterhead and cleared by our Chief Counsel’s office. That’s the good news. The not-so-good-news is that it may take a couple of weeks to get it to you based on our current correspondence backlog. Do you want the response addressed directly to you on behalf of Battelle? I’ll do what I can to expedite our response as well.

Regards,

Mike

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**From:** Santacroce, Jill C [mailto:santacrocej@nbacc.net]  
**Sent:** Friday, March 05, 2010 11:22 AM  
**To:** Stevens, Michael (PHMSA)  
**Subject:** RE: Applicability of 49 CFR 171.1 Applicability of the Federal hazmat regulations

Mike,

Can we get in writing that the access procedures in place at Ft. Detrick for visitors (currently they check photo IDs, do a car search, ask who you are seeing and what building you are going to) is adequate for “restricted access” to the general

public? We want to make sure we are complying with DOT regulations when we move our materials from USAMRIID to our new building. Thanks for your help, Jill

*Jill C. Santacroce  
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**From:** michael.stevens@dot.gov [mailto:michael.stevens@dot.gov]  
**Sent:** Wednesday, March 03, 2010 4:44 PM  
**To:** Santacroce, Jill C  
**Subject:** Applicability of 49 CFR 171.1 Applicability of the Federal hazmat regulations  
**Importance:** High

Good afternoon Ms. Santacroce,

I apologize for not getting back to you sooner on the issue you raised earlier. I just talked to our Chief Counsel's Office and confirmed my opinion on the scenario you described (the applicability of the hazmat regulations to a military installation). If the access to the installation is restricted to the general public (as I'm sure it is), the transportation of hazmat between two normally regulated commercial entities is not in commerce and therefore not subject to the Federal hazmat regulations.

Regards,

Michael Stevens  
Office of Hazardous Materials Standards  
US DOT/PHMSA  
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East Building, Second Floor  
Washington, DC 20590  
(202) 493-0133