



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

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV 19 2004

Mr. David Wiik  
Director, Radiation Safety Department  
University of South Alabama  
257 CSAB  
Mobile, AL 36688-0002

Reference No.: 04-0256

Dear Mr. Wiik:

This responds to your letter requesting clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to state agencies who offer for transportation or transport hazardous materials.

Your understanding of the HMR is correct. Hazardous materials transported for noncommercial purposes by a state agency, including state-chartered and funded universities, are not subject to the HMR. Thus, transportation of a hazardous material in state-owned or state-leased vehicles operated by state employees is not subject to the HMR. However, transportation conducted by a private entity under contract to a state agency is subject to all applicable HMR requirements. Similarly, hazardous materials offered for transportation by a state agency to a commercial carrier are subject to all applicable HMR requirements.

I trust this satisfies your inquiry.

Sincerely,

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



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UNIVERSITY OF SOUTH ALABAMA



COLLEGE OF MEDICINE  
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October 27, 2004

Edward T. Mazzullo, Director  
Office of Hazardous Materials Standards  
U.S. DOT/RSPA (DHM-10)  
400 Seventh Street S.W.  
Washington, DC 20590-0001

Mr. Mazzullo,

To what extent are state agencies covered by the Hazardous Materials Regulations (HMR; 49 CFR 171-180)? Over the past few years, I have received conflicting viewpoints and wish to get DOT's interpretation on a few specific points.

The University of South Alabama (USA) is a state agency. We have a College of Medicine, College of Nursing, and College of Allied Health that encompass many other health professions. We own three major hospitals and several out patient clinics that are also utilized as teaching facilities. Our university and associated hospitals have IRS\_501(C)3 status.

The University of South Alabama is also a consortium member with other Alabama state universities supporting the Dauphin Island Sea Lab (DISL). DISL is funded by the state of Alabama. It is about 25 miles south of the main campus. Our Radiation Safety Department (RSD) collects liquid radioactive materials (RAM) waste from DISL to dispose of it in the sanitary sewer system on USA's main campus away from the gulf coast. We also collect their solid RAM waste to hold in our campus RAM waste facility for incineration on the main campus. DISL also has IRS 501(C)3 status. The RSD does not charge or collect funds from DISL for this service.

The RSD generally receives, processes and delivers all incoming RAM to the research labs on-campus (and would for off-campus labs if there were any). They also pick up RAM waste from on-campus labs and off-campus hospitals and deliver it to a central RAM waste / decay-in-storage facility on campus.

As you can see, our service to these facilities requires transport around the county. University employees always transport these materials. They usually use a university owned vehicle. While I understand that all on-campus operations (for the university by university employees using any vehicle) are exempt, I do have questions regarding travel among our hospitals and DISL.

For example, the RSD receives (from a vendor via FedEx air) and delivers a Beta Cath<sup>®</sup> machine (strontium-90 sealed source inside a unit designed to treat heart vessels) to one of the hospitals' catheterization labs every quarter. In turn, the RSD returns the expired Beta Cath<sup>®</sup> machine to campus and ships it back to the vendor via FedEx air. We transport it locally in the manufacturer's shipping container. Are we subject to DOT regulations as we *locally deliver it to the hospital and bring the old one back* to campus for return to the vendor via FedEx? My understanding is that we are not subject to DOT / IATA until we hand it over to FedEx. Is this true?

When we pick up a load of radioactive linen, garbage and dinnerware that was used by an iodine-131 therapy patient from one of our hospitals and transport it back to campus to the decay-in-storage facility, are we subject to DOT regulations since the patient paid for the treatment?

When one of our research teams from DISL disembark from an NRC licensed research vessel in California, are they subject to DOT regulations as they bring their equipment & supplies back to Alabama in a U-Haul<sup>®</sup> truck if concentrations in the liquid scintillation vials are above those set forth in CFR 49 173.436? After they publish research results or are otherwise finished with the liquid / solid RAM waste, are we subject to DOT regulations as the RSD transports it twenty five miles back to main campus from DISL?

The University of South Alabama takes HazMat safety seriously. We believe we're currently within DOT compliance and all personnel involved in transport have current DOT training certificates. Having an interpretation from you will simply redirect our paperwork format (specifically the RAM waste manifest).

Thank you for your consideration in this matter and I look forward to your reply.



David Wiik, Director  
Radiation Safety Department