



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

March 4, 2021

Malcolm Smith  
Senior Safety Officer  
MRIGlobal-NCR  
65 West Watkins Mill Road  
Gaithersburg, MD 20878

Reference No. 20-0064

Dear Mr. Smith:

This letter is in response to your June 26, 2020, email and subsequent phone conversation requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the provision for Division 6.2 Category B infectious substances contained in a patient sample. Specifically, you ask several questions regarding § 173.134(b)(10) in reference to the transport of patient samples that may contain biological materials classified as a Category B infectious substance.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether an individual's personal vehicle may be used to transport patient samples that may contain Category B infectious substances in accordance with the provisions of § 173.134(b)(10).
- A1. The answer is yes. There are situations in which an individual's personal vehicle may be used to transport patient samples that may contain Category B infectious materials and still operate under the provision outlined in § 173.134(b)(10). In accordance with § 173.134(b)(10), a Division 6.2 Category B substance is not subject to the requirements of the HMR provided it is: 1) contained in a patient sample being transported for research, diagnosis, investigational activities, or disease treatment or prevention, or a biological product; and 2) transported by a private or contract carrier in a motor vehicle used exclusively to transport such materials. However, if the shipment does not meet the provisions in § 173.134(b)(10), then it may not be transported in an individual's personal vehicle.
- Q2. You ask whether the "private or contract carrier" referenced in § 173.134(b)(10) must have a Hazmat Endorsement on their license and/or specific hazmat training.
- A2. The answer is no. For determining the applicability of a Hazmat Endorsement, "hazardous materials" is defined in 49 CFR Part 383 as any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under

49 CFR Part 172, Subpart F, or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73. Pursuant to § 172.500(b)(1) of the HMR, Division 6.2 materials do not require placards, nor are they listed as a select agent or toxin in 42 CFR Part 73 and, therefore, do not require a Hazmat Endorsement or a Commercial Driver's License.

Similarly, Category B patient samples that are shipped in accordance with § 173.134(b)(10) are not subject to the training requirements in 49 CFR Part 172, Subpart H.

- Q3. You ask for clarification of the word “exclusively,” as used in § 173.134(b)(10). Specifically, you ask whether the motor vehicle used to transport the potentially infectious patient samples may be used only to transport “such material” at any time, or whether it may be used for other purposes, but must only be used to transport “such material” during the transport event (i.e., no personal pickups, drop offs or other activities (shopping, getting food, etc.)).
- A3. To be considered “used exclusively” or in “exclusive use,” a motor vehicle may not contain other goods, materials, or passengers at the same time it is used to transport Category B patient samples. A single trip transporting only these materials from either one or multiple shippers may be considered the exclusive use of a transport vehicle under § 173.134(b)(10).
- Q4. You ask for clarification of a “private motor carrier” and how it may be used in relation to public transportation. Specifically, you ask:
- a) Whether a taxi cab or rideshare vehicle may be used as a private motor carrier when it is only used for transportation of the material.
  - b) Whether the rider must alert a taxi or rideshare driver that they are carrying a 6.2 material.
  - c) In the event there is a spill, whose responsibility would it be to report the spill and clean the taxi cab or rideshare vehicle.
- A4. A “private motor carrier” is defined in 49 CFR 390.5 as a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier. Therefore, a taxi cab or rideshare vehicle could not be considered a private motor carrier unless it is owned and operated by the business offering the hazardous material for transportation. Regulations pertaining to passenger carriers are found in 49 CFR Part 374 of the Federal Motor Carrier Safety Regulations. Please contact the Federal Motor Carrier Safety Administration for additional information.
- Q5. You ask for clarification on when something is considered materials of trade (MOTs) in accordance with the HMR. Specifically, you ask:

- a) Whether an employee may pick up materials from a company and then bring them back to their own company.
  - b) Whether the MOTs provision would apply if a company hired a third-party to pick up material and exclusively bring it back to the company's facility.
- A5. If a company's principal business is collecting and analyzing samples and it is in direct support of their business as defined, then the company is eligible for the MOTs provision, provided the samples meet the requirements in § 173.6. A MOT is a hazardous material, other than a hazardous waste, that is carried on a motor vehicle (1) for the purpose of protecting the health and safety of the motor vehicle operator or passengers; (2) for the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or (3) by a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle (see § 171.8). Using your examples, a company's employees may transport those samples to either their own facility or a third-party facility for testing while using a private motor carrier in accordance with the MOTs provision. However, if the company collects the samples but hires a for-hire carrier to transport those samples to either the company's facility or a third-party facility for testing, the MOTs provision would not apply because hiring a third-party carrier is not considered a private motor carrier. As such, the third-party carrier would have to transport the samples in compliance with the HMR.

Please note that the requirements of the HMR apply to each person who offers a hazardous material for transportation in commerce and the transportation of a hazardous material in commerce. The transportation of a hazardous material by a private individual for non-commercial personal use is not considered transportation in commerce and would not be subject to the HMR.

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

Sincerely,



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

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#)  
**Cc:** [Hazmat Interps](#); [Whitlock, Sarah CTR \(PHMSA\)](#)  
**Subject:** FW: Request Official Letter of Interpretation for CFR 173.134(b)(10)  
**Date:** Tuesday, August 18, 2020 3:47:24 PM

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Dear Alice,

Please see the below letter of interpretation request.

Please contact our office if you have any questions.

Regards,

-Breanna, HMIC

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**From:** Smith, Malcolm [mailto:masmith@mriglobal.org]  
**Sent:** Friday, June 26, 2020 4:36 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** Jeppesen, Eric <ejepesen@mriglobal.org>; Morrison, Lizzie <lmorrison@mriglobal.org>  
**Subject:** Request Official Letter of Interpretation for CFR 173.134(b)(10)

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

Please provide clarification of the Hazardous Materials Regulations (HMR) exemption applicable to the transport of patient samples potentially containing infectious biological materials categorized as a Category B dangerous good.

The exemption within the HMR in question is as follows:

**CFR 173.134(b)(10)**

*A Division 6.2 material, other than a Category A infectious substance, contained in a patient sample being transported for research, diagnosis, investigational activities, or disease treatment or prevention, or a biological product, when such materials are transported by a private or contract carrier in a motor vehicle used exclusively to transport such materials. Medical or clinical equipment and laboratory products may be transported aboard the same vehicle provided they are properly packaged and secured against exposure or contamination. If the human or animal sample or biological product meets the definition of regulated medical waste in paragraph (a)(5) of this section, it must be offered for transportation and transported in conformance with the appropriate requirements for regulated medical waste.*

Clarification is needed regarding the following language in the exemption: "...when such materials

are transported by a private or contract carrier in a motor vehicle used exclusively to transport such materials.”

My questions regarding this language are as follows:

1. Are there any situations when an individual’s personal vehicle can be used to transport patient samples that may contain infectious materials that are categorized by the DOT as Category B and still maintain the exemption? If so when is it permissible to do so?
2. Regarding “private or contract carrier, ” does the carrier need to possess a HAZMAT endorsed license? Does the carrier need to have completed specific DOT carrier training or retraining?
3. Please clarify the word “exclusively” in the language above. Does the word “exclusively” mean that:
  - a. The motor vehicle used to transport the potentially infectious patient samples can only be used to transport “such material” **at any time** or
  - b. The motor vehicle be used for other purposes, but must only be used to transport “such material” during the transport event (i.e. no personal pickups, drop offs or other admin or personal activities (shopping, getting food, etc) when transporting the dangerous good.
4. Please clarify what a Private Motor carrier is and how it can be used in relation so public transportation?
  - a. Can a taxi cab can be used as a private motor carrier? When it is only used for transportation of the material.
  - b. If a taxi (or rideshare) is used, is the rider responsible to alert the driver that they are carrying the 6.2 material?
  - c. If there’s a spill in the vehicle is used, whose responsibility is it to report the spill and clean the vehicle?
5. When is something considered MOT’s and when it falls into the HMR?
  - a. Can an employee come pick-up materials from another company and take them back to their own company?
  - b. If a company hires a third party to pick up material and exclusively bring it back to the facility, is this MOT’s?

If you have additional questions regarding this request, my contact info is in my email signature.

Thanks,

Malcolm Smith

**Malcolm Smith, MS, RBP**

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