



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

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

JUL - 8 2010

Mr. Timothy J. Santy  
Director of Operations  
Food Safety Net Services LTD  
199 W. Rhapsody  
San Antonio, TX 78216

Ref. No. 10-0124

Dear Mr. Santy:

This responds to your June 7, 2010 request for clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for confirmation that the HMR do not apply to the transportation of incubated raw beef samples for testing.

According to your letter, you are considering transporting raw beef samples enriched with a media and incubated for a period that would allow salmonella, listeria or e coli 0157:H7 to grow to a detectable limit, if present. In your letter, you state that statistically, 98% of the time, there will be no pathogens present. You further state that an individual in our Hazardous Materials Information Center concluded that for transportation purposes the material would not be regulated under the HMR. Therefore, you are asking for confirmation that the HMR do not apply to your operations.

As provided in § 173.22, it is the shipper's responsibility to properly classify a hazardous material. This office generally does not perform this function. However, if your enriched raw beef samples do not meet the hazard class criteria in Part 173, and is not a hazardous substance, hazardous waste, or marine pollutant, it is not subject to the HMR.

I hope this answers your inquiry. If you need further assistance, please contact this office.

Sincerely,

Charles E. Betts  
Chief, Standards Development  
Office of Hazardous Materials Standards

**Drakeford, Carolyn (PHMSA)**

Boothe  
§ 171.1  
Applicability  
10-0124

**From:** INFOCNTR (PHMSA)  
**Sent:** Monday, June 07, 2010 12:22 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Formal Letter of Interpretation

Carolyn,  
A request for a formal written letter of interpretation.  
Thanks,  
Rob

---

**From:** Tim Santy [mailto:Tsanty@Food-SafetyNet.com]  
**Sent:** Monday, June 07, 2010 12:11 PM  
**To:** INFOCNTR (PHMSA)  
**Subject:** Formal Letter of Interpretation

To Whom it may concern:

We are a third party food testing laboratory. We test for most major raw beef producers. We have a beef slaughter plant that is in Michigan and we need to test their samples in our Green Bay WI lab. The transportation time of the raw samples (non-hazardous) prevents us from giving them a turn around time on the test that meets their needs. We are exploring the option of incubating the raw meat samples in transit. This would mean that we took the raw beef samples that are non-hazardous, enrich them in a media and then incubate them for a period of time that would allow salmonella, listeria or e coli 0157:H7 to grow to a detectable limit if present. Statistically, 98% of the time, there will be no pathogens present. Your call center help attendant interpreted the law governing this to imply the product is not hazardous per DOT definitions unless someone ate it. Therefore, he determined that the DOT Hazardous Materials guidelines do not apply to this over the road transportation.

Can you please review this and respond to me in a formal letter of interpretation on this subject?

Thank you,

Timothy J. Santy  
Director of Operations  
Food Safety Net Services LTD  
199 W Rhapsody  
San Antonio, TX 78216  
[tsanty@food-safetynet.com](mailto:tsanty@food-safetynet.com)  
v 210-477-3631  
m 210-240-8402  
f 210-525-1702

---

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please notify the sender and delete the material from your computer. In the event that laboratory test results are communicated in this email, they are considered preliminary and offered as a courtesy only. Laboratory test results are only authorized as final when issued as a signed certified Certificate of Analysis. Food Safety Net Services [postmaster@food-safetynet.com](mailto:postmaster@food-safetynet.com)

---