



U.S. Department
of Transportation

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

**Pipeline and
Hazardous Materials Safety
Administration**

FEB 23 2006

Captain George E. Gray, Jr.

Reference No.: 06-0008

North Carolina State Highway Patrol

430 North Salisbury Street

Raleigh, NC 27699-4702

Dear Captain Gray:

This responds to your request for clarification of the exceptions for agricultural operations in § 173.5 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1. For other than Class 2, § 173.5 excepts agricultural products transported over local roads between fields of the same farm from the HMR. Agricultural products in Class 2 that are transported over local roads between fields of the same farm are excepted from the emergency response and training requirements. Do the exceptions apply to agricultural products being transported from a storage facility or office located on the same farm to the fields?

A1. The answer is yes; the term “same farm” means a farm owned or under the direct control of the same person and includes not only fields of the farm, but also the buildings on the farm.

Q2. It is our understanding that transportation of agricultural products transported to and from a farm, within 150 miles of the farm, is excepted only from the emergency response and training requirements. Is our understanding correct?

A2. Your understanding is correct. Transportation of agricultural products to or from a farm, within 150 miles of the farm, is excepted from the emergency response (Subpart G) and training (Subpart H) and specification packaging requirements of the HMR when the products are being transported by the farmer. In addition to the quantity limitations in § 173.5(b), all other HMR requirements, such as shipping papers, markings, labels, and placards, apply.



060008

173.5

I trust this satisfies your request.

Sincerely,

A handwritten signature in dark ink, appearing to read "Hattie L. Mitchell". The signature is written in a cursive style with a large initial "H" and "M".

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

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Thursday, January 05, 2006 8:22 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Request for interpretation

*Carbin
\$173.5
Packagings & Exceptions
06-0008*

Carolyn,

I can't remember if I forwarded this to you already or not. If not, could you please enter this into the interop data base and assign it to someone for response? Thanks.

Susan

From: Shelton, Danny <FMCSA>
Sent: Wednesday, December 28, 2005 9:36 AM
To: Gorsky, Susan <PHMSA>
Subject: Request for interpretation

Susan, please see the following e-mail from Captain George Gray, North Carolina State Highway Patrol, regarding 173.5. George and I discussed these situations over the phone but I advised him that if he wanted a written response that we would need a request. He advises me this is a hot issue in North Carolina and had the involvement of the State Legislature to resolve these issues in favor of the farmers. What else is new. Anyway could you please provide a written response. You can either send it to me or you can send it directly to George Gray. I will get you his official mailing address anyway.

Thanks.

For the record I believe his understanding of the transportation of bulk quantities of HM from the farm shop or office to fields is incorrect. It would be my understanding that if you had 500 gallons of diesel fuel in a tank located at the farm office, you could transport that 500 gallons to the field to fuel the farm equipment.

From: Gray, George E. Jr. [mailto:gegray@NCSHP.ORG]
Sent: Tuesday, December 27, 2005 3:41 PM
To: Shelton, Danny
Subject: RE: test

Danny:

The question we have is in regards to 49 CFR 173.5 (a) & (b) . It is our understanding that 49 CFR 173.5 (a) exempts the transportation of any HM agricultural products from the requirements of the subchapter, with the exception of Class 2 materials, if the product is being transported by a farmer only between fields of the same farm. It is also our understanding that if the farmer is transporting bulk quantities of HM from the farm shop or office to the fields, they would not be exempt from the requirements of the subchapter regardless of the Class of material. This of course is referring to intrastate only.

Secondly, 49 CFR 173.5 (b) reads that the transportation of agriculture products transported over the road within 150 miles of the farm are only exempted from Subpart G & H of Part 172 and the spec packaging requirements. This of course is referring to intrastate only. Is our understanding of this correct?

-----Original Message-----
From: Shelton, Danny [mailto:danny.shelton@fnscsa.dot.gov]
Sent: Thursday, December 22, 2005 7:29 AM
To: Gray, George E. Jr.

1/5/2006

Subject: RE: test

Good morning Eddie. If you need an official signed interpretation from PHMSA. If so send me a quick e-mail with the question.

From: Gray, George E. Jr. [mailto:gegray@NCSHP.ORG]
Sent: Monday, December 19, 2005 10:49 AM
To: Shelton, Danny
Subject: RE: test

Got it.. Thanks

-----Original Message-----
From: Shelton, Danny [mailto:danny.shelton@fmcsa.dot.gov]
Sent: Monday, December 19, 2005 10:47 AM
To: Gray, George E. Jr.
Subject: test

715-8683
(919)