



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

MAR 19 1998

Mr. Bill Rosenthal
Pacific Resource Recovery
3150 E. Pico Blvd.
Los Angeles, CA 90023-3683

Dear Mr. Rosenthal:

This is in response to your letter concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to a consignee's acceptance of hazardous materials that were improperly packaged, offered for transportation and transported to their intended destination.

Your questions are paraphrased and answered as follows:

Q1. May a treatment, storage and disposal facility (TSDF) accept hazardous waste packaged in violation of the HMR? The hazardous waste which requires specification packagings is delivered in non-specification packagings. The TSDF is the final destination of the packages of hazardous materials.

A1. The HMR apply to persons who offer for transportation, accept for transportation or transport hazardous materials in commerce. In the scenario you present, if the hazardous materials were delivered to and accepted at the final destination, they are no longer in transportation and the HMR do not apply.

Q2. Are the packages of hazardous material considered out of transportation at the point they are placed on the facility's loading dock? What is the distinction between the transporter and a facility employee unloading the packagings?

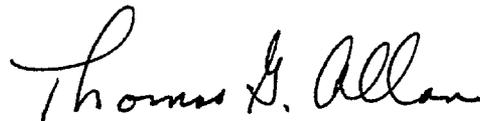
A2. A shipment of packaged hazardous material is considered in transportation until it is received and accepted at its final destination. If the carrier performs the unloading function, the carrier, but not the TSDF, is subject to requirements of the HMR pertaining to packaging or unloading.

Q3. If the facility uses its own transport vehicle to pick up hazardous wastes, must the packagings conform to specifications in the HMR?

A3. Yes. Section 177.801 specifies that no person may accept for transportation or transport by motor vehicle a hazardous material that is not prepared in accordance with the requirements of the HMR.

I hope this information is helpful. If you need additional information, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Allan".

Thomas G. Allan
Senior Transportation
Regulations Specialist

November 25, 1997

Joan McIntyre
Hazardous Materials Specialist
Office of Hazardous Materials Standards
U.S. Department of Transportation
400 Seventh Street, S.W., DHM-10
Washington, D.C. 20590

*McIntyre
File: 171-8
SC: 517,540*



Dear Joan:

Per our recent telephone conversation on November 24, 1997, I am requesting clarification on the Hazardous Materials Regulations (HMR), specifically 49 U.S.C. 5102.

In this section, and based on our discussion, "transportation" as defined in the Federal hazardous material transportation law is any movement of property by any mode, and any loading, unloading, or storage incidental to such movement. Under this section, the HMR only apply until:

- 1) the containers of hazardous material have been removed from the transport vehicle, i.e. (truck trailer) and placed on the consignee's premises; or
- 2) the motive power has been removed from the trailer and removed from the premises.

The HMR do not apply when the material is no longer "in transportation."

The questions I have regarding the requested clarification of this section is if a transporter carrying hazardous waste in NON-UN certified containers, where the material being transported would require that the UN type of containers be utilized, arrives at a Treatment, Storage and Disposal Facility (TSDF) to deliver this material, can the TSDF accept this material in these containers since at the point it is placed on the facility's loading dock, it is no longer considered to be "in transportation" ?

In this scenario, this material would not continue on "in transportation" and it's receipt at the TSDF would indicate that the material has reached the final destination point.

In this case, would the liability for illegal shipment only fall onto the transporter or would the TSDF also be liable for accepting the shipment?

Also please clarify if either the driver transporting the hazardous waste or the waste facility worker(s) can remove the material from the transport vehicle onto the TSDF loading dock, without affecting the above definition.

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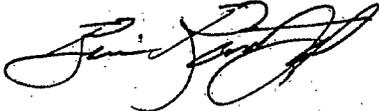
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It is my understanding that if the TSDF has it's own transport vehicle, and performs hazardous waste pick-up(s) for it's clients, it must comply with the UN packaging requirements for these materials as required prior to and during "transportation" to legally be in compliance with the HMR.

I would appreciate your written response on how this regulation applies to the senario as indicated above, so I may properly advise our customers of the requirements.

Sincerely,

Pacific Resource Recovery Services



Bill Rosenthal
Director of Health, Safety and Environmental Affairs

BR:br