



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

1200 New Jersey Avenue, SE
Washington, DC 20590

September 24, 2021

Mr. Darrel K. Smith
President and CEO
Healthcare Waste Institute
1550 Crystal Drive, Suite 804
Arlington, VA 22202

Reference No. 21-0085

Dear Mr. Smith:

This letter is in response to your August 16, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to requirements for the transportation of regulated medical waste. Specifically, you seek confirmation that the requirements for the transportation of hazardous materials in commerce found in the HMR apply to generators and carriers of regulated medical waste in quantities less than 200 lbs.

The answer is yes. There are requirements in the HMR applicable to the transportation of regulated medical waste in commerce, regardless of the aggregate quantity offered or transported at a given time.

As noted in the 2012 Utah Division of Solid & Hazardous Waste infectious waste transportation guidance, "OSHA and USDOT have separate regulations that apply to infectious waste. These regulations should be consulted by persons handling infectious waste." This 2012 guidance, issued by a division of the Utah state government clarifying applicability of Utah state law, does not conflict with the requirements of the HMR.

Therefore, PHMSA does not intend to direct the state to revise its guidance.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen", written in a cursive style.

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

21-0085
Patrick

From: [Foster, Glenn \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#); [Hillman, Kenetha CTR \(PHMSA\)](#)
Subject: FW: Email from Chief Counsel Inbox
Date: Thursday, August 19, 2021 4:32:46 PM
Attachments: [FW Request for interpretation.msg](#)
[image002.png](#)

Alice and Kenetha,

Please have the attached checked in as an Interp and assigned to a Specialist.

Thanks,
Glenn

From: Saniuk, Madison (PHMSA) <madison.saniuk@dot.gov>
Sent: Thursday, August 19, 2021 4:16 PM
To: Foster, Glenn (PHMSA) <Glenn.Foster@dot.gov>
Cc: Horsley, Adam (PHMSA) <adam.horsley@dot.gov>; Andrews, Steven (PHMSA) <steven.andrews@dot.gov>; Ciccarone, Michael (PHMSA) <m.ciccarone@dot.gov>
Subject: FW: Email from Chief Counsel Inbox

Glenn,

The attached email and letter got routed to PHC to make sure it wasn't a preemption request. Upon review we realized that the letter is a general HMR applicability question/interpretation request, so I'm passing it along to you and your team.

Thanks,

Madison Saniuk

Attorney Advisor, Office of the Chief Counsel

US Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE, Washington, DC, 20590
Office: 202.366.8573 ♦ Mobile: 202.807.8850

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From: Hollingshead, Brandon (PHMSA) <brandon.hollingshead@dot.gov>
Sent: Thursday, August 19, 2021 8:55 AM
To: Saniuk, Madison (PHMSA) <madison.saniuk@dot.gov>
Cc: Horsley, Adam (PHMSA) <adam.horsley@dot.gov>; Tsaganos, Vasiliki (PHMSA)

<vasiliki.tsaganos@dot.gov>

Subject: Email from Chief Counsel Inbox

Madison,

The attached email and letter from the Healthcare Waste Institute came into the Chief Counsel inbox. I am sending to you for review and whatever action is appropriate.

Thank you.

Best,

Brandon Hollingshead

Assistant Chief Counsel for General Law, Office of Chief Counsel

US Department of Transportation

Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Avenue, Washington, DC, 20590

Office: 202.366.0845 ♦ Mobile: 202.604.6777

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1550 Crystal Drive
Suite 804
Arlington, VA 22202
T 202.244.4700

21-0085
Patrick

August 16, 2021

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division
Pipeline & Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Transportation of Infectious Waste

Dear Mr. Foster:

The Healthcare Waste Institute (HWI) of the National Waste & Recycling Association (Nwra) is writing to request an interpretation on Utah's Infectious Waste Management Guidance.¹ The HWI represents manufacturers and service providers as well as other professionals in the healthcare waste management industry.

The Healthcare Waste Institute is an advocacy organization within Nwra, a not-for-profit trade group serving the interests of the solid and healthcare waste industries. The Institute supports private companies across the United States that manage healthcare waste, including regulated medical waste and infectious substances, through transportation and facility operations. In addition, members assist shippers in complying with hazardous materials packaging requirements.

The "*Infectious Waste Transportation*" section states that transporters of infectious waste are regulated when they have more than 200 pounds from one source in the vehicle at one time and must follow US DOT requirements. This implies that US DOT requirements do not apply for infectious waste below Utah's state regulated 200-

¹ Infectious Waste Management Guidance, Utah Division of Solid & Hazardous Waste, May 2012, accessed August 4, 2021 at <https://documents.deq.utah.gov/waste-management-and-radiation-control/solid-waste/DSHW-2019-002192.pdf>

pound weight limit. However, US DOT regulates the packing, marking, labeling, and transportation of regulated medical waste for transportation regardless of weight.

While we understand that the state does not have any regulations governing the transportation of infectious waste when it is below the weight threshold, nonetheless, transportation of Regulated Medical Waste falls under the US DOT's Hazardous Materials Regulations which preempts state regulations and thus, transporters must comply with federal laws. However, facilities may not understand this distinction and, as a result, based on this guidance could mix infectious waste with their municipal solid waste. This jeopardizes the ability of waste transporters to comply with state and federal regulations. We therefore request an interpretation as to whether the Hazardous Materials Regulations (HMR; 49 CFR §171-180) would preempt this guidance and if so, if PHMSA will direct the state to revise the guidance accordingly. A revised guidance would provide consistency, enabling transporters to better comply with all regulations.

HWI appreciates your consideration of our request. HWI and its members would welcome the opportunity to discuss these and other concerns in further detail. Should you have any questions, please call Anne Germain at 202-364-3724 or e-mail at agermain@wasterecycling.org.

Very truly yours,

A handwritten signature in black ink that reads "Darrel K. Smith". The signature is written in a cursive, flowing style.

Darrel K. Smith
President & CEO