



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 30 1998

Dr. Jim Merrifield
Senior Regulatory Specialist
General Electric Company
260 Hudson River Road
Waterford, NY 12188

Ref. No. 98-0327

Dear Dr. Merrifield:

This is in response to your letter of November 4, 1998, regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the HMR apply to the following traffic situation which occurs three to five times each day:

A guard-controlled entrance gate for a waste treatment facility is located directly across a public road from an operator-controlled entrance gate for the main site. A traffic light is suspended above this crossover. Whenever facility traffic wishes to travel between the two sites, either the guard or the vehicle driver will activate the traffic light/gate controller. The traffic light sequences through yellow to red. The gates begin opening after the light is red. The traffic light is red for 4-6 seconds before the vehicle can pass through the gate. The red traffic light is affixed with a flashing strobe that is visible from several hundred feet. North-south traffic along the public road stops in both directions at the light prior to and during any facility vehicle crossing. After the vehicle has cleared the road, either the guard or the vehicle operator closes the gate and returns the light to green for traffic to resume.

As specified in § 171.1, the HMR govern the safe transportation of hazardous material in intrastate, interstate, and foreign commerce. "In commerce" excludes from regulation the transportation of hazardous material on a private road. The use of a traffic light in these circumstances to deny public access to a public highway makes the highway private, and therefore, not subject to the HMR.

I hope this answers your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



98-0327

GE Silicones

General Electric Company
 250 W. 110th Street
 Cincinnati, OH 45228
 513 237 3111

August 25, 1998

George
 \$171.1

Mr. Ed Mazzullo, Director
 Office of Hazardous Material Standards
 Research and Special Programs Administration
 U.S. Department of Transportation
 400 7th Street, SW
 Washington, DC 20509-0001
 FAX: (202) 366-3012

Dear Mr. Mazzullo:

I am writing to you to request a written regulatory interpretation concerning the applicability of the hazardous material regulations (HMR) to the following transportation situation:

A two-lane, public road traverses our facility site, separating the site into two sections: the main site and an ancillary site. The ancillary site contains our waste treatment facility. A fence completely surrounds each site. Each site has a guard-controlled entrance gate. Traffic into and out of either site is monitored by a guardhouse, so both sections of our facility site are private access areas.

As shown in the diagram attached, a guard-controlled entrance gate for the waste treatment facility is located directly across the public road from a operator-controlled entrance gate for the main site. A traffic light is suspended above this crossover. Whenever facility traffic wishes to travel between the two sites, either the guard or the vehicle driver will activate the traffic light/gate controller. The traffic light sequences through yellow to red. The gates begin opening after the light is red. The traffic light is red for 4 - 6 seconds before the vehicle can pass through the gate. The red traffic light is affixed with a flashing strobe that is visible from several hundred feet. North-south traffic along the public road stops in both directions at the light prior to and during any facility vehicle crossing. After the vehicle has cleared the road, either the guard or the vehicle operator closes the gate and returns the light to green for traffic to resume.

Facility vehicles will travel through this crossover between the sites 3 - 5 times each day. Traffic along the public road is not heavy (about 6 cars per minute), except around 8 a.m. and 5 p.m. on weekdays. Facility traffic does not cross over the public road during these times. Facility vehicles have been using this crossing system since 1973. To date, there have been no traffic incidents.

The types of vehicles that cross over between the sites include tanker trucks (transporting 5 to 20,000 lbs of material) and trucks transporting drums of materials. Sometimes these vehicles transport Class 3 flammable liquids (PG II and III) or Class 8 corrosive materials (PG II and III). Would the transportation of these materials between the two sites in the above-described situation be considered subject to the HMR?

If you have any questions concerning this transportation situation, please call me at (518) 233-3461.

Sincerely,

Jim Merrifield, Ph.D.
 Senior Regulatory Specialist
 GE Silicones

1670L

STATE OF NEW YORK - DEPARTMENT OF TRANSPORTATION
DIVISION OF TRAFFIC AND SAFETY

CASE: 17203050
FILE: 165-39
Saratoga Co.

SIGNAL OPERATION SPECIFICATIONS (CONTINUED)

SIP

Saratoga

December 11, 1972

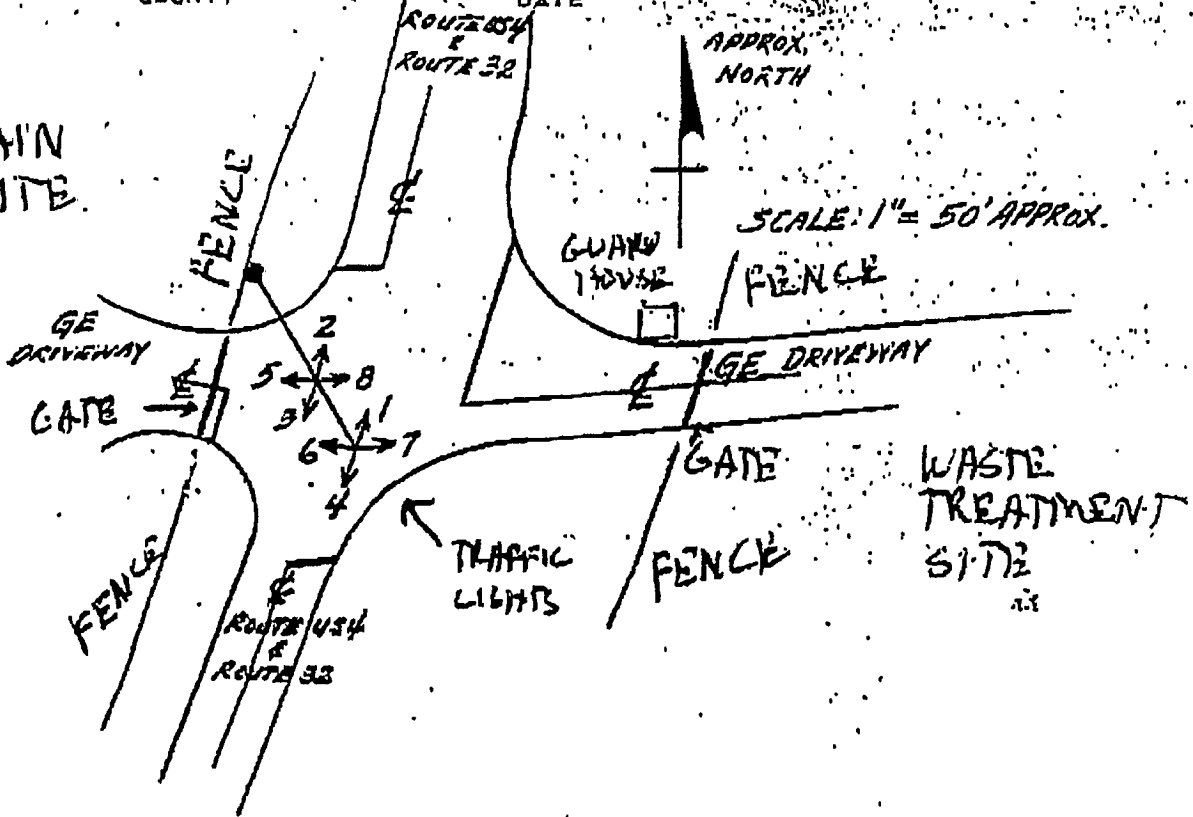
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SIGNAL NO.

COUNTY

DATE

MAIN SITE



PHASE

FACES

	<u>1,2,3,4</u>	<u>5&6</u>	<u>7&8</u>
A	Green	Red	Flashing Red
Clearance	Yellow	Red	Flashing Red
B	Red	Green	Green
Clearance	Red	Yellow	Yellow
A	Green	Red	Flashing Red
<u>Emergency Operation</u>	Flashing Yellow	Flashing Red	Flashing Red