



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

JUN 21 2000

Mr. Dave Vail  
County of Olmsted  
Public Works Department  
2122 Campus Drive SE  
Rochester, MN 55904-4744

Ref. No. 00-0042

Dear Mr. Vail:

This is in response to your letter dated January 31, 2000, regarding the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they apply to household hazardous waste. The collection program is government operated and the facilities and equipment are government owned.

You stated that the Minnesota DOT has a regional household waste collection program, which consists of four counties in Southeastern Minnesota. The collection program consists of one permanent facility and one semi-truck and trailer (mobile facility), which collects household waste in various parts of the region. The counties that are part of the regional collection partnership sometimes bill each other for various services, such as providing a truck to perform scheduled event collections around the area. The partner in your collection area does not charge for transportation, but charges (i.e., counties reimburse each other) for the time the employee is on the road, to and from these collections, and the time the employee is helping administer the collection. Specifically, you asked, what "in commerce" means, and whether being reimbursed for travel time constitutes being "in commerce".

The HMR do not apply to the transportation of household hazardous waste collected by the governmentally operated Southeastern Minnesota household hazardous waste collection program. The HMR apply to those entities covered by the definition of a "person", in § 171.8, which includes a government offering hazardous material for transportation "in commerce" or transporting hazardous material "in furtherance of a commercial enterprise." Accordingly, a government employee who is



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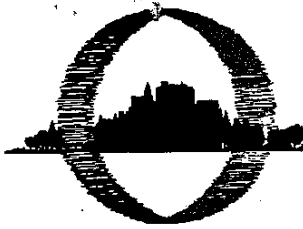
transporting hazardous material for a non-commercial purpose in the course of his/her employment for a governmental entity, is not subject to the HMR. Whether the counties that are part of the regional collection partnership sometimes reimburse each other for various services, they are jointly conducting a non-commercial enterprise that is not considered to be transportation in commerce. Therefore, the HMR do not apply to this transportation..

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

Sincerely,



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



COUNTY OF  
*Olmsted*

*ENSRUM*  
§ 171.1

PUBLIC WORKS DEPARTMENT  
2122 CAMPUS DR SE  
ROCHESTER MN 55904-4744  
507/285-8231

00-0042

Date: 1-31-00

Delmer Billings  
U.S. DOT  
Office of Hazmat Standards  
400 7<sup>th</sup> Street SW  
Washington, DC 20590-0001

Dear Mr. Billings,

Our program is seeking your guidance on the request of the Minnesota Department of Transportation. We are a regional household hazardous waste collection program. The region consists of four counties in Southeastern Minnesota. We currently employ one permanent facility and one semi-truck and trailer (mobile facility) to collect waste in the region. I understand that when a county employee is driving a county vehicle and is on official county business that the employee is considered to not be "in commerce" and thus is not required but is encouraged to abide by DOT hazardous waste transportation guidelines. We would like clarification of the "in commerce" rule. The counties that are part of our regional collection partnership sometimes charge each other for various services, one of these services is providing the collection truck to perform scheduled event collections around the regional collection area. Although the partner who owns the truck in our collection region does not charge for transportation per say, the partner does charge for the time the employee is on the road, on the way to and on the back from, event collections, as well as the time the employee is helping administer the collection. Because we are being charged for travel time, does this constitute being "in commerce"? Please keep in mind that processing of collected household hazardous waste does occur at many of the collections. Therefore much of the material being transported is "waste" and is not usable product.

Sincerely,

Dave Vail  
Olmsted County Hazardous Waste Specialist  
Phone: (507) 287-2470  
Fax: (507) 287-2320



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