



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

SEP 26 2001

Alice P. Jacobsohn, Esq.
Acting Director, Industry Research
and Public Affairs
Medical Waste Institute
4301 Connecticut Avenue, NW
Washington, DC 20008

Reference No.: 00-0295

Dear Ms. Jacobsohn:

This responds to your inquiry concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to household waste, particularly waste generated in connection with services rendered by a home health care provider. Please accept my apology for our delay in responding to your inquiry and for any inconvenience this may have caused.

As your letter notes, § 173.134(b) of the HMR provides an exception from HMR requirements for any waste material, including garbage, trash, and sanitary waste in septic tanks, that is derived from households. The term "households" includes single and multiple residences, hotels, and motels. The intent of this exception is to exclude from regulation under the HMR waste generated by individual residences that is collected by local sanitation workers along with trash, garbage, and other non-medical household waste.

The exception in § 173.134(b) applies to regulated medical waste (RMW) generated in connection with services rendered by a home health care provider that is disposed of at a residence with other non-medical household waste. However, you are correct that the exception in § 173.134(b) does not apply to RMW generated in connection with services rendered by a home health care provider that is removed by the home health care provider for disposal elsewhere. In such cases, all applicable HMR requirements apply to the transportation of the RMW.

We appreciate your comments to Docket No. RSPA-98-3971 (HM-226). Be assured that your comments will be given careful consideration as we develop a final rule.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards



000295

173.134



Edmonson
~~Atkinson~~ § 173.134
Regulated Medical Waste

Medical Waste Institute ♦ 4301 Connecticut Avenue, NW, Suite 300, Washington, DC 20008 ♦ 202-244-4700

October 10, 2000

Ms. Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Ms. Mitchell:

Edward Krisiunas, Director, Inscite, sent to me a copy of the letter you wrote on March 24, 2000 (see attached). I am writing to you in response to your letter asking for clarification. In the letter, you stated that household waste was exempt from RSPA's regulated medical waste rules. However, your explanation on the definition of household waste is confusing in light of recent activity at RSPA. As the manager of the Medical Waste Institute (MWI), I am requesting a further explanation such that I may update members on the rules.

I understand that household waste is exempted from the rules under 49 CFR § 173.134. Under that rule, if a person generates regulated medical waste (RMW) in a residence, hotel, or motel, and disposes of that waste at the residence, hotel, or motel, then the exception applies. This would include a home care provider who enters a residence, provides care, and disposes of the waste at that residence. However, my understanding through past conversations with Ed Mazzullo, is that if a home care provider removes the RMW from the residence, then the waste no longer falls within the definition of household waste and as a commercial provider, that waste must be packaged and transported in accordance with the rules.

This discussion was raised in RSPA's rulemaking, HM-200, when a commenter requested that the agency include home health care infectious waste in the definition of "materials of trade" (see 62 FR 1208, at 1209). At that time, RSPA was not ready to make a decision on the issue. This issue was re-raised in the advance notice of proposed rulemaking on infectious substances (63 FR 46843, at 46847) when RSPA asked for public comment on whether home health care providers should be exempt from the rules as a material of trade. Perhaps, RSPA was focusing on the specifics of materials of trade when it responded in these rulemakings. However, if home care providers are completely exempt from the rules as stated in your letter to Mr. Krisiunas, then the entire discussion on materials of trade becomes irrelevant. There was not a suggestion by RSPA in either of the rulemakings or any other rulemaking to change 49 CFR § 173.134.

MWI requested that RSPA not allow a materials of trade exception for home care agency waste in its comments on the advance notice. MWI would like the agency to remove the exception altogether because we do not see a difference between a physician transporting infectious waste and a home care agency transporting that same type of waste. The existing exception creates a market imbalance and endangers public health. Although we understand some of the enforcement difficulties involved, MWI believes these problems can be resolved. I hope that our comments are being given serious consideration and I have merely misunderstood the extent of your response to Mr. Krisiunas.

I look forward to your clarification on the exception.

Sincerely,

A handwritten signature in cursive script that reads "Alice P. Jacobsohn".

Alice P. Jacobsohn, Esq.
Senior Manager, Waste Programs and Research

cc: Ed Mazzullo, RSPA ✓
Tom Herbert, American Waste Industries, Inc. (Chair MWI)



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

MAR 24 2000

Edward Krisiunas, MT(ASCP),
CIC, MPH
Director, Inscite
115 Lyons Road
Burlington, CT 06013

Reference No. 99-0106

Dear Mr. Krisiunas:

This is in response to your letter concerning a provision in 49 CFR 173.134 that exempts waste transported from households from regulation under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You asked for a clarification of what constitutes household waste. You also asked us to explain why regulated medical waste (RMW) that is transported by a courier from a physician's office is regulated under the HMR but it is not regulated when generated by a home health care provider and discarded in household waste. I apologize for the delay in responding and any inconvenience this may have caused.

Household waste is not subject to the requirements in the HMR. (See § 173.134(b)(1)(v).) In 1989, the Environmental Protection Agency (EPA) published an interim final rule (54 FR 12326, 12339) that implemented a two-year demonstration program for regulating medical waste. EPA excluded from regulation medical waste from households, including that generated by a home health care provider. I have enclosed a copy of the preamble discussion on household waste that appeared in the EPA final rule. We agreed with EPA's position. When we amended our infectious substance requirements in the HMR and added a definition for RMW, we provided a similar exclusion for household waste (56 FR 66124, 66142).

I hope this satisfies your request.

Sincerely,

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

Enclosures



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