



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

JAN 17 2002

Mr. Lee R. Wilmot
Business Line Manager
IT Corporation
3 Riverside Drive
Andover, MA 01810-1141

Ref. No. 01-0313

Dear Mr. Wilmot:

This is in response to your letter dated December 6, 2001, requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to hazardous waste collection centers (HWCC). These centers are established to collect surplus and unused chemicals that are dropped off by citizens, schools, and businesses at a designated site. Your scenarios and questions are paraphrased and answered as follows:

- Q1 Are private citizens required to follow the HMR when bringing household wastes to the HWCCs for disposal?
- A1. No. The HMR govern the safe transportation of hazardous materials in commerce as specified in § 171.1. "In commerce" generally means in furtherance of a commercial enterprise. A citizen who transports hazardous materials for private purposes is not subject to the HMR.
- Q2. Are school employees and community volunteers required to follow the HMR when bringing school wastes to the HWCCs for disposal?
- A2. No. A public school is considered a government entity, and its transportation thus is not "in commerce."
- Q3. Are company employees required to follow the HMR when bringing school wastes to the HWCCs for disposal or to the company site for use/reuse?
- A3. Yes. Company activities are considered to be "in commerce" and thus subject to the HMR.

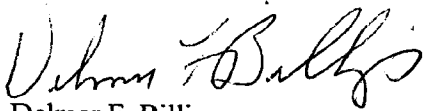
171.1

Q4. Are company wastes transported to the HWCCs subject to the HMR?

A4. Company wastes that meet the definition of a specific hazard class or that are listed as a hazardous substance in Appendix A to § 172.101 are subject to the HMR. The type of vehicle (e.g., company-owned, rented, leased) or carrier used does not affect the applicability of the HMR.

I hope this satisfies your request.

Sincerely,



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



BAH
§171.1
Applicability
01-0313

IT Corporation
3 Riverside Drive
Andover, MA 01810-1141
Tel. 978.682.1980
Fax. 978.975.2065

A Member of The IT Group

December 6, 2001

Mr. Edward Mazzullo
Director, Office of Hazardous Materials Standards
US DOT/RSPA (DHM-10)
400 7th Street SW
Washington, DC 20590-0001

Re: Applicability of Subchapter C HM Regulations

Dear Director Mazzullo:

I'm writing after discussing the captioned subject with Cameron in the Hazardous Materials Information Center. The basic issue is whether these regulations apply to the transport of small quantities of certain hazardous materials to household hazardous waste collection centers. Cameron confirmed that these regulations apply only if the hazardous materials are being transported in commerce. 49 CFR 171.1(a)(1) states in part

"... requirements ... governing – The offering of hazardous materials for transportation and transportation of hazardous materials in interstate, intrastate, ... commerce by ... motor vehicle ..."

While some of the transport scenarios were clearly not applicable, some were questionable. Hence, this letter for clarification and interpretation.

The basic issue is that of transporting surplus or unused chemicals and janitorial supplies to a local household hazardous waste collection (HHWC) site. Such transport and use of local HHWC sites is permitted by not only homeowners, but also local schools, and even small quantity hazardous waste generators by state hazardous waste management rules. This concept being the basis of this question, here are the transport scenarios to the local HHWC site to which interpretation of applicability of the HM rules is sought.

1. Household "wastes" transported by homeowner in his/her own vehicle. (Rules verbally determined to not apply.)
2. School "wastes" transported by school employee in school vehicle. (Rules verbally determined to not apply.)
3. School "wastes" transported by community volunteer in volunteer's own vehicle. (Rules verbally determined to not apply.)
4. School "wastes" transported by nearby company volunteer in volunteer's own vehicle.

IT Corporation
A Member of The IT Group

Mr. Edward Mazzullo
December 6, 2001
Page 2

5. School "wastes" transported by nearby company volunteer in company vehicle.
6. Company wastes transported by company employee in company vehicle.
7. Company wastes transported by company employee in hired/rented/leased vehicle.
8. Company wastes transported by independent trucking firm.

Please note that certain state agencies are trying to recruit companies to mentor local public schools' chemical use practices, as many, many schools do not have the technical expertise to properly do so. Excess storage of decades of unused or surplus chemicals is common. In order for this initiative to be effective, the compliance exposure described by the above scenarios needs to be well understood by both the local schools and the mentoring companies. Further, scenarios 2-5 could be modified to transport the surplus/unused chemicals to a local company for use/reuse in that company's process, which is more environmentally beneficial. I would appreciate your addressing these alternative scenarios as well.

Should you have any questions on this request, please call me at 978/682-1980 x 2022.

Sincerely,

IT CORPORATION



Lee R. Wilmot
Business Line Manager
lee.wilmot@theitgroup.com