



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

NOV 15 2006

Ms. Christine Nuñez  
Environmental Manager  
City of Surprise, Water Services Department  
12425 W. Bell Road, Suite D-100  
Surprise, AZ 85374-9002

Reference No.: 06-0225

Dear Ms. Nuñez:

This responds to your letter concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to government agencies and government contractors. You ask if the City of Surprise is subject to the HMR if it hires a contractor to perform all shipper or carrier functions.

The HMR apply to the transportation of hazardous materials in commerce. The HMR do not apply to the transportation of a hazardous material in a motor vehicle, aircraft, or vessel operated by a Federal, state, or local government employee solely for noncommercial governmental purposes because such transportation is not considered to be "in commerce" (see § 171.1(d)(5)). Thus, if City of Surprise employees prepare and transport hazardous waste for disposal, that transportation is not subject to the HMR.

Persons performing pre-transportation or transportation functions under contract with a Federal, state, or local government entity are subject to the HMR. Thus, if the City of Surprise contracts with a third party to class, package, prepare shipping documentation, load, and transport hazardous waste on its behalf, the contractor must comply with all applicable HMR requirements.

The HMR do not require hazardous materials shippers and carriers to obtain a permit to transport hazardous materials. However, in accordance with 49 CFR Part 107, Subpart G, a person who offers for transportation or transports one or more of the hazardous materials listed in 49 CFR 107.601 must register and pay a registration fee. You are correct that a government agency is not required to register.

I trust this satisfies your request.

Sincerely,

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



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**INFOCNTR <PHMSA>**

**From:** Christine Nunez [Christine.Nunez@surpriseaz.com]  
**Sent:** Friday, October 06, 2006 1:18 PM  
**To:** INFOCNTR <PHMSA>  
**Attachments:** Christine Nuñez.vcf

Registration/Shipper's  
 Responsibility  
 06-0225

I called and spoke with a representative from your organization on the telephone but I am looking for a written interpretation of what I thought I heard and what I have researched.

I work for a local government agency (the City of Surprise in Arizona) and I have a small quantity of hazardous material to be hauled off and disposed of – I would like to hire a third party to characterize it, quantify it, package it and ship it. My question is: As a local government (a City or a Department of the City) are we required to apply or get permitted to ship (offer) this hazardous waste?

Based on my research here is what I came up with:

If we do not have radioactive, explosives, extremely toxic, or over 3500 pounds, we do not require placarding then we do not have to apply to offer this waste - additionally as a local government agency we are exempt.

Also, if we hire a third party they have to do it all - characterize, package, load, ship, and dispose the we do not have any requirements upon us – not that we should not have knowledge and training for safety purposes but legally we are not required to do anything else but hire the third party to do it all. AND If any City employee takes part in this activity then they have to know the regulations and requirements (have hazwaste training).

And lastly, we have the ability to load it, ship it and haul it off to a disposal location and we as a local government are exempt from the regs. With the stipulation that it is our staff, our vehicles, and our waste.

Please provide something in writing that confirms or denies these assumptions.

*Christine Nuñez*  
**Environmental Manager**  
 City of Surprise, Water Services Department  
 12425 W. Bell Rd, Suite D-100  
 Surprise, Arizona 85374-9002  
 Phone: (623) 594-5830  
 Mobile: (480) 220-3865  
 Fax: (623) 583-2892  
 christine.nunez@surpriseaz.com

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