



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

FEB 23 2009

Ms. Teresa Gilbertson  
Minnesota Pollution Control Agency  
1420 East College Drive, Suite 900  
Marshall, MN 56169

Reference No. 08-0271

Dear Ms. Gilbertson:

This is in response to your e-mail asking if the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) apply to a commercial “for-hire” motor carrier that picks up hazardous materials from households and transports them for disposal. You state the HMR address the transport of these materials by municipal governments but not those transported by for-hire motor carriers.

Section 173.12(f) excepts waste hazardous materials generated from households from having to comply with the HMR when transported in commerce according to applicable state, local, or tribal requirements. We recently added this paragraph to clarify a long-standing exception that the HMR do not apply to these types of waste. See 73 FR 4600 (1/28/08; effective 10/1/08) and 74 FR 2200 (1/14/09; effective 2/13/09). It is our understanding that such household wastes typically are picked up at curbside by municipal governments for disposal in conformance with applicable state or local government requirements. In these same rulemakings, we also added and revised a definition for “household waste” in § 171.8 that states this material is any solid waste (including garbage, trash, and sanitary waste from septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). The HMR also do not apply to Division 6.2 (infectious substance) waste generated from households (see § 173.134(b)(13)(i)).

With regard to collection centers, we note that the transportation of consolidated household waste material in a motor vehicle operated by a government employee, solely for non-commercial government purposes, is not “commercial” transportation for purposes of the HMR and, therefore, is not subject to the requirements of the HMR (see § 171.1(d)(5)).

However, transportation of a consolidated hazardous waste shipment from a collection center by a commercial motor carrier under contract to a government entity or a commercial business is “commercial” transportation for purposes of the HMR and, therefore, is subject to applicable HMR requirements.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hattie L. Mitchell', with a stylized flourish at the end.

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

**Drakeford, Carolyn <PHMSA>**

---

**From:** INFOCNTR <PHMSA>  
**Sent:** Wednesday, October 29, 2008 4:17 PM  
**To:** Drakeford, Carolyn <PHMSA>  
**Subject:** FW: Information Center Comments/Questions

Edmonson  
§ 173.12  
§ 173.26.  
Exceptions  
08-0271

-----Original Message-----

From: teresa.gilbertson@state.mn.us [mailto:teresa.gilbertson@state.mn.us]  
Sent: Wednesday, October 29, 2008 2:54 PM  
To: INFOCNTR <PHMSA>  
Subject: Information Center Comments/Questions

Below is the result of your feedback form. It was submitted by teresa gilbertson (teresa.gilbertson@state.mn.us) on Wednesday, October 29, 2008 at 14:54:23.

-----  
Email: teresa.gilbertson@state.mn.us

Name: teresa gilbertson

Category: General Information, Regulations, and Definitions (Sections 171.1 - 171.26)

Organization: minnesota pollution control agency

Street: 1420 E College Dr, Suite 900

City: Marshall

State: Minnesota

Zip Code: 56169

Country: USA

Phone: 507 476-4254

Fax: 507 537-6001

Comments: A Minnesota commercial company wants to start collecting household hazardous waste directly from homes. This is not a government entity and they plan to charge a fee for the transport service (hence would be "in commerce"). The USDOT/PHMSA definition of "household waste" (49 CFR 171.8, and its reference in 173.12) was added in January 2008, but I find no PHMSA interpretations on this new subject. The preamble to the final rule discusses that most of these wastes are picked up by municipal governments for transport and disposal. It does not address pick up and transport by a for hire carrier. Can PHMSA provide a written interpretation on applicability of the HMR in this situation?