



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

1200 New Jersey Ave, SE  
Washington, D.C. 20590

JUN 13 2013

Alan G. Woodard, Ph.D.  
Bureau of Permitting and Planning  
Division of Materials Management  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7258

Reference No. 13-0068

Dear Mr. Woodard:

This is in response to your March 28, 2013 e-mail and telephone conversation with a member of my staff requesting clarification on whether the transportation of used sharps collected as part of a public health program complies with the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state this program permits used sharps to be collected from individuals and placed in authorized sharps containers at 198 registered locations in New York City. You further state these sharps containers are periodically picked up by persons hired to prepare them for transportation in packagings that comply with the HMR's requirements for Division 6.2 Materials of Trade (MOT). These persons then transport the completed packages by foot and/or public transportation (i.e., subway, cab, bus, or car for hire) to authorized facilities for proper disposal. You ask if the method you described for transporting these materials is in compliance with the HMR.

The answer is no. As defined in § 171.8, *Material of trade* means a hazardous material, other than a hazardous waste, that is carried on a motor vehicle—

- (1) For the purpose of protecting the health and safety of the motor vehicle operator or passengers;
- (2) For the purpose of supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment); or
- (3) By a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle.

In the example you described, none of the sharps containers are being transported by private motor carrier. Although the HMR does not specifically define "private motor carrier," this Office has interpreted this term to mean that a "private motor carrier" is a carrier that transports a business' own products and does not provide such transportation service to other businesses. None of the transportation vehicles you describe is a private motor carrier. You may wish to apply for

regulatory relief to authorize the transportation of these used sharps under the terms of a special permit. Special permits are granted on a case-by-case basis and the application procedures are set forth in 49 CFR 107.105. The Pipeline and Hazardous Materials Safety Administration's Approvals and Permits Division may be reached at (202) 366-4535.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is written in a cursive style with a long horizontal flourish extending to the right.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

Edmonson  
§ 173.134  
§ 173.197  
Regulated Medical Waste  
13-8068

**From:** Alan Woodard [mailto:agwoodar@gw.dec.state.ny.us]  
**Sent:** Thursday, March 28, 2013 11:32 AM  
**To:** Edmonson, Eileen (PHMSA)  
**Subject:** RE: Agricultural Clearance Material

Eileen:

Thank you so much for your responses and for discussing the conveyance by foot and public transportation with me. As I mentioned, we are collaborating with our State Health Department on establishing sharps collection sites around the state and have 198 collection sites currently. An issue that has surfaced that involves primarily NYC where collections are made at participating facilities registered with us. Sharps containers are dropped off at the facilities and then several days later are picked up and carried by foot to a public transportation mechanism (i.e., subway, cab, bus or car for hire). The Health Department is interested in expanding this program. Is this conveyance practice acceptable and what are the packaging, labeling and shipping paper requirements that should be utilized for these mechanisms? As I indicated I can see that carrying a box labeled biohazard or otherwise onto public transportation as being very alarming within NYC and the potential for inappropriate disposal as a concern. I would appreciate it if you could provide me with a response on this. Thanks again.

Alan

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