

Mar 19 2003

Ms. Diane Kroll
IH/Safety Manager
VA Medical Center
4301 8th Street North
St. Cloud, MN 56303

Reference No. 02-0321

Dear Ms. Kroll:

This is in response to your letter and our March 11, 2003 telephone conversation concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to certain hazardous materials transported by the Veteran Affairs Medical Center. Specifically, you inquired whether the HMR apply to the transport of small quantities of hazardous materials on the same government vehicle being used to transport patients receiving health care between the Veteran Affairs Medical Center's facilities. You state the hazardous materials are used for governmental purposes.

The HMR govern the transportation of hazardous materials in commerce. Shipments of hazardous materials transported by a government entity in vehicles operated by government personnel for noncommercial purposes are not "in commerce" and, subsequently, are not subject to requirements in the HMR. The Federal hazardous materials transportation law, at 49 U.S.C. § 5102(9), and the HMR, at § 171.8, define a "person" to whom the regulations prescribed under § 5103(a)(1) apply. However, note that a commercial company contracted by a government entity to transport hazardous materials would be subject to the HMR; see § 171.1(b).

I hope this satisfies your inquiry. Should you have any further questions, please contact this office.

Sincerely,

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

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