



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

SEP 13 1999

Mr. Rudolph Bouie
Acting Chief Operations Officer
Argonne National Laboratory
970 South Cass Avenue
Argonne, Illinois 60439

Ref. No. 99-0232

Dear Mr. Bouie:

This responds to your letter of August 11, 1999, concerning the definition of "transportation" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you seek guidance for determining when a hazardous material has completed transportation and is no longer subject to the HMR. You describe a scenario in which packages of hazardous materials are delivered to your facility, unloaded from a carrier's transport vehicle, and stored temporarily in a warehouse prior to distribution to other locations within your facility.

"Transportation," as defined in § 5102 of the Federal hazardous materials transportation law (49 U.S.C. 5101-5127), means the movement of property and loading, unloading, or storage incidental to the movement. You are correct that hazardous materials transportation ends once a consignee takes physical delivery of the hazardous material from the carrier. After delivery, storage of hazardous material at a consignee facility is not "storage incidental to the movement" within the meaning of the Federal hazardous materials transportation law; thus, the HMR do not apply to such storage. Similarly, intra-plant movement of hazardous materials that takes place within a contiguous plant boundary is not subject to HMR. However, intra-plant movement that utilizes or crosses a public road is subject to the HMR during that portion of the movement.

I hope this information is helpful. We will provide a copy of this letter to the Federal Highway Administration. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Thomas G. Allan
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



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August 11, 1999

99-0232

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, S.W.
Washington, D.C. 20590-0001

Re: Argonne National Laboratory Request For Interpretation
On Application of 49 CFR 177.848(d)

Dear Mr. Mazzullo:

Argonne National Laboratory (ANL or Argonne) is a U.S. Government-owned, contractor-operated laboratory that conducts research and development activities, with facilities located in Argonne, Illinois (ANL-East) and near Idaho Falls, Idaho (ANL-West). Argonne is owned by the U.S. Department of Energy (DOE) and is operated for DOE by The University of Chicago. By this letter, Argonne is seeking guidance with respect to determining when a hazardous material has completed "transportation" and no longer is subject to the U.S. Department of Transportation (DOT) Hazardous Materials Regulations (HMRs). More specifically, Argonne is requesting interpretation of the applicability of the segregation requirements of 49 CFR 177.848(d), to packages of hazardous materials received at Argonne and stored temporarily in a warehouse area (located beyond the loading dock area in the ANL-East building for receiving such materials, following receipt there from the carriers delivering them to ANL-East), pending their distribution by Argonne personnel to the locations within the enclosed ANL-East site at which they will be used.

Based on Research and Special Programs Administration guidance, as set forth more fully in the Argonne National Laboratory Statement Supporting Request For Interpretation On Application of 49 CFR 177.848(d) (enclosed with this letter), it is Argonne's view that the HMRs, including the segregation requirements of 49 CFR 177.848(d), do not apply to the handling or movement of the packages at the enclosed ANL-East site on their way to the ANL-East buildings at which they will be utilized, because such activities occur subsequent to the time the "transportation" of materials countenanced by the HMRs has been completed, i.e., when the ANL-East receiving personnel take physical delivery from the carrier's representative.

August 11, 1999

Because Argonne's interest in this issue has arisen in the context of a pending enforcement action pursuant to a July 21, 1999 Notice of Claim and Notice of Investigation issued by the Federal Highway Administration, Midwestern Resource Center, we respectfully request that the response to this request for interpretation be expedited to the extent that may be possible.

If you have any questions concerning this request, or if you require any additional information, please contact Jim Huggins, Manager, Plant Facilities and Services-Site Services, at (630)252-1764, or William Luck, Senior Attorney, at (630)252-7300.

Thank you for your consideration of this matter.

Sincerely,



Rudolph Bouie
Acting Chief Operations Officer

RB/ml

Enclosure