

9592.1992(01)

United States Environmental Protection Agency
Washington, D.C. 20460
Office of Solid Waste and Emergency Response

July 8, 1992

Ms. Cynthia Hilton
Mr. Clifford J. Harvison
Chemical Waste Transportation Institute
National Solid Waste Management Association
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

Dear Ms. Hilton and Mr. Harvison:

Thank you for your letter of May 27, 1992 requesting clarification of language in the preamble to the final rule on used oil (57 FR 21530). You are requesting clarification on the term handler and on where the statutory and regulatory authorities for the transportation of hazardous materials stand.

As currently written, the preamble of the final rule states: "A used oil handler must comply with all state requirements applicable to used oil in his/her state, in addition to any Federal requirements that apply" (57 FR 21530; May 20, 1992). This statement indicates that the handler must comply with State regulations when they are applicable and, by implication, not when such state regulations are not applicable as a matter of law. Thus, in cases where Federal regulations, such as those established by the Department of Transportation's Hazardous Materials Transportation Act, as amended, preempt state regulations then the state regulations no longer apply and the Federal DOT regulations prevail and the handler must be in compliance with these regulations. The preamble statement was not intended to and does not, alter the HMTA nor eliminate its preemptive effect over state regulation of hazardous material transportation.

I trust this will be responsive to your concerns. If you have any further questions, please contact Michaelle Wilson of my staff at (202) 260-4669.

Sincerely,
David Bussard, Director
Characterization and Assessment Division

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