



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

AUG 7 2003

Mr. Michael H. Diem
Commander
U.S. Army Center for Health
Promotion and Preventive Medicine
5158 Blackhawk Rd.
Aberdeen Proving Ground, MD 21010

Ref. No. 03-0193

Dear Mr. Diem:

This is in response to your letter dated August 1, 2003 concerning the transportation of "Regulated medical waste, 6.2, UN 3291, PG II" under the Hazardous Materials Regulations (HMR: 49 CFR Parts 171-180). Specifically, you ask if regulated medical waste meeting § 173.134(c)(1)(ii) is subject to the specification packaging requirements of § 173.197(b).

The answer is no. Although it may not be clear, the intention of § 173.134(c)(1)(ii) is for regulated medical waste that is transported by private or contract carrier to be excepted from the specific packaging requirements of § 173.197(b), if packaged in rigid, non-bulk packaging conforming to §§ 173.24 and 173.24a, and 29 CFR 1910.1030. In order to clarify this exception, we will revise § 173.134(c)(1)(ii) in a future rulemaking.

I hope this satisfies your request.

Sincerely,

Susan Gorsky
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



030193

173.24

INFOCNTR

From: Diem, Michael H Mr USACHPPM [michael.diem@us.army.mil]
Sent: Friday, August 01, 2003 4:42 PM
To: INFOCNTR
Cc: Baetz, Linda L Ms USACHPPM; Cummings, Laurie A LTC USACHPPM
Subject: Request for written clarification

Supko
§173.24(c)
Packagings
03-0193

Gentlemen: I have just spoken on the telephone with Susan Gorsky, who asked me to write to you for interpretation/clarification to a portion of the 49 CFR. We ask for a written response that will clarify the RSPA's intent regarding the outer packaging for transport of Regulated Medical Waste. We have contract carriers serving our military medical facilities and they are starting to provide packagings that do not have the UN Specification marking.

Specifically, Section 173.134(c)(1)(ii) says, "...specific packaging requirements of this section..." As we all know, "this section" [i.e., 173.134] is silent on specific packaging requirements. If one reads further in that same subsection, one is referred to general packaging requirements of sections 173.24 and 173.24a. In Section 173.24(c)(1) the reader learns that the only authorized packagings are those one finds by going the section shown in Column 8 of the Hazardous material table, namely 173.197. In the latter section [173.197(b)], one sees that non-bulk packagings must be specification containers meeting the Packing Group II (two) performance level as set forth in Section 178, Subpart M.

No matter how one reads the current phrasing of the regulations, one is led to the requirement for UN Specification packaging for Regulated Medical Waste. We understand that it was the DOT's intention to allow contract carriers to offer to their customers and to use non-specification containers under certain conditions, some of which are expressed in Section 173.134(c)(2). But the current regulatory text does not support that intent and the regulatory community is in a compliance bind, particularly with respect to signing the certification statement on shipping papers. There are additional spin-off issues regarding what contracts for services specify, and the wording of regulations that the military issues in order to implement the Department of Transportation regulations.

If you can clarify the intent of the current regulations in a way that we can use as current and authoritative, compliance with the rules will be easier to evaluate and the anxiety of certifying officials and managers will be eased. We thank you for any help you can give in this regard.

Questions regarding this request may be directed to Mr. Michael

H.
Diem at (410)436-3651.

Please reply to:

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