



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JUN 17 2006

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

Clifford W. Lester, MSPH, CIH, EMT'B, DGSA
Hazardous Communication Specialist
Huntsman
10003 Woodloch Forest Drive
The Woodlands, TX 77380

Reference No. 05-0235

Dear Mr. Lester:

This is in response to your letter and telephone conversation with a member of my staff requesting clarification on how to package and describe spent catalysts being transported to a facility for reclamation under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state the catalysts meet the definitions of various hazard classes under the HMR, and your company enters the appropriate description for each material on a standard bill-of-lading. You also state the Environmental Protection Agency (EPA) has determined these materials are solid wastes under 40 CFR 261.1(c)(1) and (c)(4) but does not require them to be manifested as hazardous waste. We have paraphrased your questions and answered them in the order provided. We apologize for the delay in responding and any inconvenience this may have caused.

- Q1. We currently use new UN standard drums to transport these spent catalysts to a facility for final reclamation because we interpret that the original drums do not conform to § 173.12(c) solely because these material do not meet the definition of a hazardous waste. Is our understanding correct?
- A1. You are correct that the packagings prescribed in § 173.12(c) are permitted to be used for hazardous wastes only. However, provided the UN standard drums your company uses are those prescribed in the HMR for each catalyst's hazard class, new or used drums may be used as long as they are determined to meet the performance criteria for the packaging type and are retired from use when they no longer meet this standard.
- Q2. Is the term "waste" as it is used in §§ 173.12(c) and 173.28 restricted to those materials meeting EPA's definition of a hazardous waste?
- A2. Yes. In accordance with § 171.8, for purposes of the HMR a hazardous waste is a material subject to the EPA's hazardous waste manifest requirements specified in 40 CFR Part 262.



050235

171.8
173.12(c)

Q3. Does a spent catalyst that is not an EPA-manifested waste being transported to a facility for reclamation qualify for inclusion in the exception to reuse the non-bulk packagings authorized for wastes under § 173.12(c).

A3. No. See answer A1.

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is written in a cursive style with a large, sweeping flourish at the end.

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

HUNTSMAN

Edmonson
§173.12 (c)
§173.28
Waste/Reuse
05-023

Mr. Clifford W. Lester, MSPH, CIH, EMT-B, DGSA
10003 Woodloch Forest Drive
The Woodlands, Texas 77308

September 19, 2005

Director, Hazardous Material Safety
Pipeline and Hazardous Materials Safety Administration
400 7th Street SW
Washington, DC 20590

Ref: §173.12(c)
§173.28

Dear Sir,

Pursuant to the referenced requirements, we are looking for guidance concerning the shipment of DOT hazardous catalyst for reclamation. We ship a material that is a spent catalyst to a facility where various components are reclaimed. These catalyst are a hazardous material as defined by the HMR in 49 CFR 171.8 based on the characteristics of the material, however we ship this material on a bill-of-laden not a waste manifest pursuant to the US EPA's determination in 40 CFR 261.1(c)(1) & (4) spent catalyst is a solid waste (but not a hazardous waste requiring the use of a manifest).

Our current practice is to use new UN specification drums when shipping these spent catalysts for final reclamation. Our interpretation is that the use of the original drums does not conform to the requirements of 49 CFR 173.12(c), solely as a result of the material not meeting the EPA definition of a hazardous waste.

In light of the above, is the term "waste" as it is used in 49 CFR 173.12(c) and 173.28 restricted to only those materials meeting the EPA's definition of hazardous? Would the shipment of a spent catalyst to a reclamation facility qualify for inclusion in the exception listed in 173.12(c) for reuse of a non-bulk package?

Should you have any questions concerning my request, please contact me at (281) 719-6322

Sincerely,



Clifford W. Lester, MSPH, CIH, EMT-B, DGSA
Hazardous Communication Specialist