



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

NOV 01 2016

Jennifer Eberle  
Manager, Transportation Compliance  
Industrial Business  
Veolia North America  
1 Eden Lane  
Flanders, NJ 07836

Ref. No. 16-0099

Dear Ms. Eberle:

This responds to your June 6, 2016 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Part 171-180) regarding the shipment of waste materials in accordance with § 173.12. You ask if wastes which are not subject to the Uniform Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency, and thus not meeting the definition of "hazardous waste" per § 171.8, can utilize the lab pack exception at § 173.12(b)?

The answer is no. The lab pack exception provided in § 173.12(b) is for hazardous materials that meet the definition of a hazardous waste under § 171.8, specifically those materials subject to Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency at 40 CFR Part 262. Hazardous waste materials meeting that definition, and which are classed as Class or Division 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 8, or 9 are excepted from specification packaging if packed in accordance with § 173.12(b) and transported for disposal or recovery by highway, rail, or cargo vessel.

If you believe that a rulemaking change regarding the lab pack exception is warranted, we invite you to file a petition for rulemaking in accordance with §§ 106.95, 106.100, and 106.105 of the HMR, including all information necessary to support your petition. Your request will be further evaluated for merit, and may be addressed in an upcoming rulemaking. For proposed changes to 49 CFR Parts 171 through 180, please submit the petition to: Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, PHH-10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Dirk Der Kinderen  
Chief, Standards Development Branch  
Standards and Rulemaking Division

**Dodd, Alice (PHMSA)**

Casey  
§ 173.12(b)  
Exceptions  
16-0099

**From:** Rivera, Jordan CTR (PHMSA)  
**Sent:** Monday, June 06, 2016 3:17 PM  
**To:** Hazmat Interps  
**Subject:** FW: Request for Interpretation on 173.12(b) - Lab packs

Hi Shante/Alice,

Please submit this as a letter of interpretation. Please let me know if you have any questions.

Thanks,  
Jordan

**From:** Eberle, Jennifer [<mailto:jennifer.eberle@veolia.com>]  
**Sent:** Monday, June 06, 2016 1:48 PM  
**To:** PHMSA HM InfoCenter  
**Subject:** Request for Interpretation on 173.12(b) - Lab packs

Good afternoon, the purpose of this email is to receive clarification on the term "waste" as it is used for the lab pack exception found under 49 CFR 173.12(b). Does this term include all hazardous materials and non-hazardous materials that are destined for disposal?

Is the reference to "waste" in 173.12(b) limited to the definition of hazardous waste found under 171.8? The *hazardous waste* definition refers to only those materials subject to the USEPA Hazardous Waste Manifest requirements. Under the USEPA requirements, only those materials meeting the definition of a waste code (i.e. - D001) are considered to be "hazardous waste", and are required to be listed on a USEPA Hazardous Waste Manifest. It is not uncommon for many hazardous materials that are waste (being packaged and transported to a disposal facility), to not meet the definition of an EPA waste code, thereby not requiring the use of a USEPA Hazardous Waste Manifest and are transported utilizing a Non-Hazardous Waste Manifest to meet the DOT shipping paper requirement under 172.200.

May hazardous waste materials, not meeting the definition of the term "hazardous waste" as it is defined in 171.8 be managed under the 173.12(b) lab pack exception?

Thank you,


Jennifer Eberle

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