



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

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

OCT 6 2004

Mr. Tim O'Callaghan
Hazardous Materials Management Officer
Environmental Health and Safety Office
University of Hawai'i at Mānoa
2040 East-West Road
Honolulu, HI 96822

Reference No. 03-0142

Dear Mr. O'Callaghan:

This is in response to your follow-up letter and our July 1, 2004 telephone conversation concerning the transport of hazardous waste by vessel from Hawaii to the continental United States under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You asked if a shipper may use a limited quantity exception to transport a waste hazardous materials under the HMR provided he or she complies fully with the provisions contained in the exception for that material. In your example, you stated that you want to use the limited quantity exception in § 173.152 to transport two-10 pound (4.54 kg) glass inner packagings of "Waste Potassium nitrate, 5.1 (oxidizer), UN 1486, PG III." We apologize for the delay in responding and any inconvenience this may have caused.

Your understanding is correct. When offering or transporting a waste hazardous material by vessel between or within the United States and its territories, a shipper may use any HMR exception that is authorized for that material in Column (8A) of the Hazardous Materials Table (§ 172.101 Table). Section 173.152 permits 10 pound (4.54 kg) glass inner packagings of waste potassium nitrate to be transported as a limited quantity by vessel when placed inside a strong outer packaging in conformance with the applicable requirements prescribed in §§ 173.24, 173.24a, and 49 CFR Part 176. The completed package must weigh no more than 30 kg (66 pounds). On the shipping paper, the description for a material offered for transportation as a limited quantity must include the words "Limited Quantity" or "Ltd Qty" following the basic description (see § 172.203(b)). Packages must be marked with the proper shipping name for the material as shown in the Hazardous Materials Table (see 172.301(a)). Under the HMR, the identification number, hazard warning label, and placard are not required on packages that contain only limited quantities.



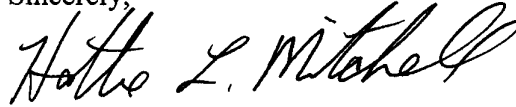
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If all or part of the waste potassium nitrate's transportation is by vessel, the material may be transported as prescribed under the International Maritime Dangerous Goods Code (IMDG Code) provided the package conforms with the requirements prescribed in § 171.12 of the HMR. The applicable regulations for limited quantities transported by vessel are found in Volume 2, Chapter 3.4, of the IMDG Code.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in black ink and is positioned above the typed name.

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

UNIVERSITY OF HAWAII AT MĀNOA

Environmental Health and Safety Office

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§ 173.12

Hazardous Waste
Exceptions

DB-0142

June 9, 2003

Via Facsimile (202) 366-3012

Ms. Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards
U. S. Department of Transportation
400 Seventh Street S.W.
Washington, D.C. 20590-001

Dear Ms. Mitchell:

This is a follow-up to my letter of July 11, 2002 and your reply of May 27, 2003.
(Reference No. 02-0191) requesting further clarification on one point.

In my letter I asked how do the requirements in 49 CFR 173.12 (b) relate to the requirements in 49 CFR 173.4, and 173.150 to 173.155. Specifically, can hazardous waste materials, which would be considered as "labpacks" be transported by vessel without an exemption to 49 CFR 173.12 (b) if the requirements of 49 CFR 173.4 (small quantity) or 49 CFR 173.150 to 173.155 (limited quantity) as appropriate are met? Your reply was that the answer is no; hazardous wastes that are offered for transportation under 173.12 (b)(1) are restricted to transportation for disposal and recovery by highway only. For transportation by vessel, an exemption must be obtained under the provisions of 49 CFR Part 107, Subpart B.

I think that I understand your answer, but perhaps my question was not clearly phrased so I would like to rephrase the question with a specific example in order that I may clearly understand how the regulations apply.

The regulations for small quantity (49 CFR 174.4), limited quantity (49 CFR 173.150 to 173.155) and labpacks (49 CFR 173.12 (b)) all provide exceptions to the specification packaging requirements involving combination packaging provided that the applicable requirements in each of those sections are met. Is the shipper free

Ms. Hattie Mitchell

June 9, 2003

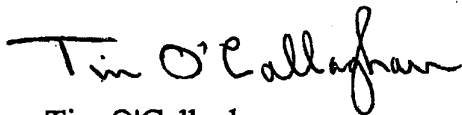
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to choose the exception which they will use provided that all of the conditions and requirements of that exception are met? For example, if I want to ship two 10 pound glass containers of solid potassium nitrate as a hazardous waste to an EPA permitted treatment, storage, and disposal site in the continental United States from Hawaii by vessel, can I use the limited quantity exception under 173.152?

Potassium Nitrate is an oxidizer (hazard class 5.1) listed in the Hazardous Materials Table (172.101) as a packing group III item and for which an exception for limited quantity under 173.152 is listed. The exception for limited quantity (173.152) states, in part, that: "Each package must conform to the packaging requirements of part B of this part and may not exceed 30 kg. (66 pounds) gross weight. The following combination packagings are authorized: For oxidizers in packing group III inner packagings not over...5.0kg. (11 pounds) net capacity each for solids, packed in strong outer packagings." I plan to use a 20 gallon UN approved, 1A2 X type, steel drum as the outer packaging. The inner packagings will be cushioned with vermiculite and the total gross weight of the container will not exceed 66 pounds.

If you need further information, please contact me at (808) 956-3198 or at ocallagh@hawaii.edu. Thank you for your assistance in this matter

Very truly yours,



Tim O'Callaghan
Hazardous Material Management Officer