



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

APR 21 2011

Mr. Donald Thorp
Engineering Manager
Los Alamos National Laboratory
P.O. Box 1663, MS A194
Los Alamos, New Mexico 87545

Ref. No.: 11-0038

Dear Mr. Thorp:

This responds to your February 15, 2011 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if any of the general packaging requirements in § 173.24 apply to a consignment containing radionuclides in quantities that do not exceed both the activity concentration and the total activity limits specified in the table in § 173.436 or the values derived according to the instruction in § 173.433.

The answer is no. *Radioactive Material* (see § 173.403) means any material containing radionuclides where both the activity concentration and the total activity in the consignment exceed the values specified in the table in § 173.436 or values derived according to the instructions in § 173.433. Based on the information you provide, the consignment is not regulated as a Class 7 (radioactive) material under the HMR because it does not meet the definition of *radioactive material*. Therefore, provided the material contained in the consignment does not otherwise meet the definition of a *hazardous material* in § 171.8, the packaging used for the consignment described in your letter is not subject to the HMR (including § 173.24).

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

Sincerely,

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division



Eichenlaub
§173.433
§173.24
§173.436
RAM
11-0038

Packaging and Transportation
P.O. Box 1663, MS A194
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Date: February 15, 2011
Refer To: P&T:11-008

Mr. Charles E. Betts
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Subject: REQUEST FOR INTERPRETATION, 49 CFR 173.433 AND § 173.24

Dear Mr. Betts:

This correspondence was initiated by a non-conformance receipt inspection of a shipment of low level waste at the Energy Solutions LLC waste facility at Clive, Utah in November 2010. If the radionuclides in a consignment do not exceed both the activity concentration and the total activity limits specified in the table in 49 CFR 173.436 or the values derived according to the instructions in 49 CFR 173.433 are any of the general requirements for packaging and packages specified in 49 CFR 173.24 applicable?

Thank you for your consideration of this question and the time and effort your organization takes to provide a response. I look forward to your formal clarification which can be sent to me at dtthorp@lanl.gov. Please contact me at 505-665-2713 if you have questions.

Sincerely,

Donald Thorp
Engineering Manager
Operations Support/Packaging and Transportation

DT/pjt

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IRM-RMMSO, A150
OS-PT Records, A194