



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

1200 New Jersey Ave., S.E.  
Washington, DC 20590

**FEB 28 2012**

Mr. Tom Baker  
Director, Environment and Transportation  
Veolia ES Technical Solutions, L.L.C.  
1 Eden Lane  
Flanders, NJ 07836

Reference No.: 12-0003

Dear Mr. Baker:

This is in response to your December 22, 2011 letter questioning the guidance provided by this office in interpretation 08-0123. You believe the interpretation does not accurately reflect the applicability of § 172.101(c)(9) of the Hazardous Materials Regulations (HMR) to shipments of PCB wastes.

Your understanding of the HMR's definition of "hazardous waste" is correct; however, your belief that interpretation 08-0123 is inconsistent with the HMR and other previously issued interpretations is not accurate.

Interpretation 08-0123 does not, as you suggest, state that PCB wastes, when manifested, should have the word "waste" preceding the basic description. Rather, it simply states that if a hazardous waste manifest is required under the Environmental Protection Agency (EPA) as specified in 40 CFR Part 262, then § 172.101(c)(9) of the HMR specifies that if the word "waste" is not included in the hazardous material description, for transportation by highway and rail, the proper shipping name for the hazardous waste must include the word "waste" preceding the proper shipping name.

In summary, the § 172.101(c)(9) requirement for the word "waste" to precede the proper shipping name applies only to those materials subject to the hazardous waste manifest under the EPA regulations specified in 40 CFR Part 262. Section 172.101(c)(9) does not apply to other materials, such as PCB wastes, that may be required to be shipped using the hazardous waste manifest under regulations other than 40 CFR Part 262.

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

Sincerely,

Delmer Billings  
Senior Regulatory Advisor  
Standards and Rulemaking Division

Babich  
§ 172.101  
Applicability  
12-0003

December 22, 2011

Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
Attn: PHH-10  
U.S. Department of Transportation  
East Building  
1200 New Jersey Avenue S.E.  
Washington DC 20590-0001

**RE: Request for Interpretation Regarding Adding the word "Waste" to Shipping Descriptions for Polychlorinated Biphenyl (PCB) wastes**

To Whom It May Concern:

Veolia ES Technical Solutions, L.L.C. (Veolia) is an environmental services company that frequently is involved with the shipment of PCB wastes for disposal. Recently, Veolia was made aware of an interpretation letter issued by DOT regarding the use of the word "waste" preceding the shipping description when manifesting PCB wastes (October 23, 2008 letter from USDOT to Mark Baron; Ref 08-0123). Veolia believes that this interpretation letter was issued in error and is requesting that USDOT provide a correction as to the applicability of 172.101(c)(9) to shipments of PCB wastes.

As defined in the HMR, a "hazardous waste" is any material that is subject to the hazardous waste manifest requirements of the EPA as specified in 40 CFR Part 262 (see § 171.8). The scope of Part 262 is stated in 262.10 as applying only to hazardous wastes as defined in 261.3 (that is, RCRA hazardous wastes). Therefore by USDOT referencing Part 262 they are only applying this shipping name requirement to RCRA hazardous wastes. Materials that are not subject to the EPA manifest requirements according to Part 262 of 40 CFR are not hazardous wastes under the HMR. Thus, use of the word "waste" preceding the basic description indicates that the material is a federally regulated hazardous waste in 40 CFR Part 262 and therefore only those materials that are regulated by USEPA as a hazardous waste and subject to Part 262 manifest requirements should include the word "waste" in the proper shipping name.

Waste PCBs are not regulated in Part 262 and are therefore not considered to be RCRA hazardous wastes. Rather PCB wastes are regulated for disposal under the TSCA regulations in 40 CFR Part 761. Although 40 CFR 761.207 does require that certain PCB wastes be shipped using the uniform hazardous waste manifest, this requirement does not trigger the DOT requirement to precede the shipping description with the word "waste".



Numerous previously issued DOT interpretations on this subject have clearly limited the requirement to add the word "waste" to RCRA wastes only. However the USDOT interpretation issued on October 23, 2008 to Mark Baron of Canton, Michigan, that states that PCB wastes when manifested should have the word "waste" preceding the basic description. Veolia believes that this interpretation was issued in error and as a result requests that USDOT provide new clarification on the use of the word "waste" in the shipping description for PCB wastes.

Your written response to this request is greatly appreciated. If you require any further information regarding this request please feel free to contact me at [tom.baker@veoliaes.com](mailto:tom.baker@veoliaes.com) or 973-691-7330.

Thank you,

A handwritten signature in cursive script that reads "Tom M. Baker".

Tom Baker  
Director, Environment and Transportation  
Veolia ES Technical Solutions, L.L.C.