



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

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

FEB 22 2002

Joseph P. Kozlovac, M.S., CBSP, RBP  
Biological Safety Officer  
SAIC Frederick Cancer Research  
and Development Center  
P.O. Box B  
Frederick, MD 21702-1201

Ref. No. 02-0013

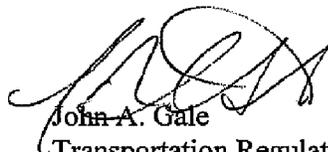
Dear Mr. Kozlovac:

This responds to your December 10, 2001 letter requesting clarification on how to determine the proper shipping name for environmental samples, including water samples, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You stated the samples will be sent for testing to determine whether or not a pathogen, such as *Bacillus anthracis* or *Legionella pneumophila*, is present. Your company described these samples as infectious substances and packages them accordingly. However, you state your company has not found any sample to contain *Bacillus anthracis* and only a few samples over past several years to contain low levels of *Legionella pneumophila*.

Section 172.101(c)(11) provides, in part, that a shipper may assign a tentative shipping name, hazard class and identification number to a material sent for testing, based on the shipper's tentative determination according to defining criteria in the regulations, hazard precedence prescribed in § 173.2, and the shipper's knowledge of the material. In § 173.22, it is the shipper's responsibility to determine the hazard class of the material to be transported. This Office does not perform that function. Based on the information you provided, it is this Office's opinion that these samples do not meet the definition of an infectious substance in § 173.134 because there is no reason to know or strongly suspect they contain an infectious substance. If a sample does not meet any other hazard class criteria in Part 173 and is not a hazardous substance, hazardous waste or marine pollutant, then it is not subject to the HMR.

I hope this satisfies your request.

Sincerely,



John A. Gale  
Transportation Regulations Specialist  
Office of Hazardous Materials Standards



020013

173.134



**SAIC Frederick**  
A Division of Science Applications  
International Corporation

Edmonson  
§ 173.134  
Infectious Substances  
02-0013

December 10, 2001

Mr. Edward Mazzullo  
Director, Office of Hazardous Materials Standard  
DHM-10  
Research and Special Programs Administration  
400 7<sup>th</sup> Street, SW  
Washington, DC 20590-0001

Dear Mr. Mazzullo:

As the Biological Safety Officer employed by SAIC-Frederick, a subsidiary of Science Applications International Corporation (SAIC) based at the NCI-Frederick on Ft. Detrick, Frederick, MD., I am responsible for overseeing the shipments of a variety of biological, chemical, and radioactive dangerous goods on a daily basis. I am requesting clarification regarding the proper classification of shipments of environmental samples for the purpose of determining the presence or absence of pathogens such as *Bacillus anthracis* and *Legionella pneumophila*. Currently, based on our review and interpretation of 49 CFR 173.134 and 173.196 we classify, package, mark and label these shipments of environmental samples as infectious substances. However, one of the testing laboratories to whom the samples are sent has indicated that it does not wish to accept the samples if they are labeled as infectious substances. In regards to environmental sampling of *B. anthracis*, The NCI-Frederick has not been a target of biological terrorism, nor have we received any threats. We are doing the monitoring as a precaution in the wake of the recent terrorist attacks. So far, the samples have all been found to be negative for the presence of *Bacillus anthracis*, but monthly monitoring will continue to take place.

In the case of environmental water samples sent to be tested for the presence of *L. pneumophila*, in most cases samples are negative however we have had samples in which low levels of the organism have been found a few times over the past several years.

I look forward to receiving a written clarification of the regulations regarding the shipment of environmental samples that will be tested for the presence or absence of pathogens.

Sincerely,

Joseph P. Kozlovac, M.S., CBSP, RBP  
Biological Safety Officer, SAIC-Frederick