



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

SEP 17 2009

Mr. Bill Pollack
Household Hazardous Waste Program
Alameda County
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

Reference No. 09-0030

Dear Mr. Pollack:

This is in response to your e-mail concerning State-regulated waste from households that does not meet the definition of a hazardous waste under the U.S. Environmental Protection Agency's (EPA's) regulations (40 CFR Parts 260-265), but does meet the definition of a hazardous material under the U.S. Department of Transportation's (DOT's) Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that since 2006, California State law has required businesses within the State to use the EPA's uniform hazardous waste manifest as the shipping paper for State-regulated wastes. You ask if the word "Waste" must precede the proper shipping description of this material.

The answer is no. As defined in the HMR, a "hazardous waste" is any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262. See § 171.8. Materials that are not subject to the EPA manifest requirements are not hazardous wastes under the HMR. Note that nothing in the HMR prohibits a State from managing these materials as State-designated hazardous wastes so long as the State does not require the material to be identified as a "hazardous waste" on the manifest. Note as well that hazardous "household waste," also defined in § 171.8, is not subject to the HMR when collected directly from households in accordance with state, local, or tribal requirements, or when consolidated and transported in a motor vehicle operated by a government employee solely for non-commercial government purposes. See § 173.12(f). However, household hazardous wastes consolidated into shipments from collection centers and transported by a commercial motor carrier under contract to a government entity or a commercial business are subject to the HMR because this is considered "commercial" transportation for purposes of the HMR. Under § 171.1, a hazardous material transported in commerce is subject to all applicable HMR requirements for each DOT hazard class, as defined in Part 173.

Shipping descriptions from the HMR may not be used to describe a non-EPA waste material on a State manifest document. Thus, the word "waste" may not precede the basic description

for a DOT-regulated hazardous material when the material is not an EPA hazardous waste. Use of the word “waste” preceding the basic description indicates that the material is a federally regulated hazardous waste. (See § 172.101(c)(9).) However, for a nonhazardous material, a shipping name from the HMR may be used following the word “waste” so long as the hazard class number or UN or NA identification number, is not included in the description of the waste material. (See § 172.202(e).)

Nothing in the HMR prohibits a State from imposing requirements on EPA-designated waste materials that are in addition to those required by EPA regulations so long as these additional requirements do not interfere with the actual movement of the waste. Thus, States may require certain additional information on the manifest form. However, this additional information may not be made mandatory during transportation of the material, and States may not apply enforcement sanctions on the transporter during transportation for any failure of the manifest to show optional State information entries.

I hope this satisfies your inquiry.

Sincerely,



Susan Gorsky
Regulations Officer
Office of Hazardous Materials Standards

Edmonson
§ 171.8 -
Definition

09-0030

Drakeford, Carolyn <PHMSA>

From: INFOCNTR <PHMSA>
Sent: Wednesday, February 04, 2009 12:18 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: use of the word waste on a manifest

From: Pollock, Bill, Env. Health [mailto:bill.pollock@acgov.org]
Sent: Tuesday, February 03, 2009 6:56 PM
To: PHMSA HM InfoCenter
Subject: use of the word waste on a manifest

Use of the word waste on a manifest

My California County government Environmental Health agency operates a Household Hazardous Waste program which is exempt from RCRA under 40CFR261.4, and from a federal standpoint I am not required to use a Uniform Hazardous Waste manifest even though the wastes I ship are Hazardous Materials found in the HMT

However under California State law I am required to ship waste using a Hazardous Waste manifest. Pre 2006 we would use a California Hazardous Waste Manifest, obviously with 2006 change in manifesting regulations we are required *by our state EPA* to use the Uniform Hazardous Waste manifest.

Does your following interpretation on the use of the word waste

“As specified in § 171.8, a hazardous waste is any material that is subject to the hazardous waste manifest requirements of the U.S. Environmental Protection Agency (EPA) as specified in 40 CFR Part 262. If a hazardous waste manifest is required under EPA regulations for the material, § 172.101(c)(9) of the HMR specifies that if the word “waste” is not included in the hazardous material description, the proper shipping name for a hazardous waste must include the word “waste” preceding the proper shipping name. via highway and rail.”

apply to waste (found in the HMT) on a hazardous waste manifest, the use of which is required by a State EPA, but not the Federal EPA.

Bill Pollock

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