



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

1200 New Jersey Ave, SE  
Washington, D.C. 20590

JUL - 8 2010

Mr. Gerald French  
Department of Ecology  
4601 North Monroe Street  
Spokane, WA 99205-1295

Ref. No. 10-0045

Dear Mr. French:

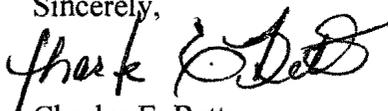
This responds to your February 19, 2010 request for clarification of requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipments of hazardous waste. Specifically, you ask if the marking requirements in § 172.301(a)(2) apply to such shipments.

Section 172.301(a)(2) states that the proper shipping name for a hazardous waste need not include the word "waste" if the package bears the Environmental Protection Agency (EPA) marking prescribed by 40 CFR 262.32. In accordance with EPA requirements in 40 CFR 262.32, before transporting a hazardous waste or offering a hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation as follows: "HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address \_\_\_\_\_. Generator's EPA Identification Number \_\_\_\_\_. Manifest Tracking Number."

You ask if the required EPA marking must be reproduced word-for-word on the packaging and whether a state or local government agency may require modifications in the EPA marking. Questions concerning clarification of the marking requirements in 40 CFR 262.32 should be directed to EPA. If EPA permits variations in the marking requirement, such variations would be permitted under the HMR.

I hope this answers your inquiry. If you need additional assistance, please contact this Office.

Sincerely,



Charles E. Betts  
Chief, Standards Development  
Office of Hazardous Materials Standards

**Drakeford, Carolyn (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Monday, February 22, 2010 11:24 AM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Interpretation of 49 CFR part 172.301(a)(2)

Boothe  
§ 172.301(a)(2)  
Marking  
10-0045

Carolyn,  
See attached request for a formal letter of written interpretation.  
Thanks,  
Rob

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**From:** French, Gerald (ECY) [mailto:GEFR461@ECY.WA.GOV]  
**Sent:** Friday, February 19, 2010 4:47 PM  
**To:** INFOCNTR (PHMSA)  
**Subject:** Interpretation of 49 CFR part 172.301(a)(2)

Rob,

I am Gerald French at the Washington State Department of Ecology and work in the hazardous waste compliance section. Thank you for talking to me by phone on February 19, 2010 with regard to interpretation of 49 CFR 172.301(a)(2). I am writing this e-mail requesting clarification on 172.301(a)(2).

172.301(a)(2) reads:

(2) The proper shipping name for a hazardous waste (as defined in § 171.8 of this subchapter) is not required to include the word "waste" if the package bears the EPA marking prescribed by 40 CFR 262.32.

40 CFR 262.32(b) reads:

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304: HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Generator's Name and Address \_\_\_\_\_. Generator's EPA Identification Number \_\_\_\_\_. Manifest Tracking Number \_\_\_\_\_.

Question: In order to comply with the 172.301(a)(2) non-bulk package marking requirements must the words in the statement "HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency." always be marked word for word on the non-bulk packaging?

Question: If a person did not mark the hazardous waste statement word for word as required in 262.32(b) on a non-bulk packaging then would that be a violation of 172.301(a)(2)?

Question: In the hazardous waste statement of 262.32(b) a police or public safety authority or the U.S. Environmental Protection Agency is required to be marked on a non-bulk packaging as who to contact if the waste is found to be improperly disposed. Can a local or state government agency require by rule its name to also be marked as who to contact in the hazardous waste statement in 262.32(b)?

Thank you for your assistance on this matter. I look forward to hearing from you.

You may respond back to me at:

Gerald French

Department of Ecology

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