



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

**FEB 05 2013**

Mr. Jack Peters  
HAZ-MAT Transportation Services  
P.O. Box 69206  
Seattle, WA 98168

Ref. No. 12-0193

Dear Mr. Peters:

This responds to your August 28, 2012 email requesting clarification of the meaning of contract carrier and private carrier under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification of the meaning of these terms with regard to the exception from the UN specification packaging requirements of § 173.197 under § 173.134(c)(1) of the HMR, namely, whether the exception applies to contract or private air carriage of regulated medical waste (RMW).

The common meaning of “contract carrier” is any person that transports goods or passengers for others under one or a limited number of contracts. A “private carrier” is a person that typically transports its own goods or passengers rather than providing transport under contract to others. Unless specifically qualified in the HMR, use of either term in the HMR signifies the broad meaning of “carrier” as it is defined in § 171.8. That is, use of either term signifies all modes of transportation.

With regard to regulated medical waste transported by aircraft, the exception in § 173.134(c)(1) applies. RMW may be transported in non-DOT specification packaging by a contract or private air carrier provided the RMW is packaged in a rigid non-bulk packaging conforming to the requirements of §§ 173.24 and 173.24a of the HMR and to the Occupational Safety and Health Administration packaging requirements for bloodborne pathogens in 29 CFR 1910.1030. The RMW may not include a waste concentrated stock culture of an infectious substance. Additionally, sharps containers must be securely closed to prevent leaks or punctures. Also, take note that the International Civil Aviation Organization’s Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) does not authorize a similar exception from specification packaging requirements for air transport of RMW as the HMR. Air carriers that operate in accordance with the ICAO TI may refuse shipment of RMW offered for transport in non-DOT specification packaging.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Benedict". The signature is written in a cursive style with a large initial "R" and "B".

Robert Benedict  
Chief, Standards Development Branch  
Standards and Rulemaking Division

**Drakeford, Carolyn (PHMSA)**

Der Kinderen  
§ 171.8  
§ 173.29 (c)

**From:** INFOCNTR (PHMSA)  
**Sent:** Tuesday, August 28, 2012 2:25 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Hazmat Information Center Feedback: Other Questions?

Empty Packagings  
12-0193

Carolyn,

We received the following request for a formal letter of interpretation.

Thanks,  
Victoria

-----Original Message-----

**From:** PHMSA Webmaster  
**Sent:** Tuesday, August 28, 2012 2:15 PM  
**To:** PHMSA HM InfoCenter; PHMSA Webmaster  
**Subject:** Hazmat Information Center Feedback: Other Questions?

I would like clarification on the term "contract carrier" as used in 49CFR.

The term "carrier" is clearly defined in 171.8k but in interpretation 02-0259 and that is in reference to empty packagings in 173.29(c).

Your interpretation, at that time, excludes other modes of transport and therefore are changing the definition from 171.8 to only include highway transport.

Air carriers may have a contract with a shipper to transport their materials from rural Alaska to Anchorage/Fairbanks for the disposal of Regulated Medical Waste (RMW). RMW may be transported per 173.134(c) by contract carrier and not be required to be in UN performance packaging.

If this is not extended to other modes (here specifically to air) then all of the hospitals and clinics will have to change their mode of packaging.

All of these hospitals/clinics (300 or so) will be required to use UN4GV rated packages as there is no way to test packages as ready for transport due to the various inner packagings and their sizes/shapes/weights. This will cause extreme expense to the taxpayers of the United States as these clinics/hospitals are funded by U. S. tax dollars.

Additionally, with the narrow application that is in 02-0259 you are changing the meaning of the word "carrier" as found in 171.8.

It is becoming more common for shippers and carriers to enter into a contract and this is not limited to highway transport.

I have several shippers who contract with various vessel and air carriers to transport their material, both hazardous and non hazardous.

I also would like the words "private carrier" to be interpreted the same way as many companies have their own vessels or aircraft and wish to use similar exceptions.

Thank you for your time in this matter.

Please feel free to contact me about this as it appears that all the regulated medical waste that is being generated in rural Alaska will have to be held up or delayed until this is resolved.

Jack Peters

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Organization: HAZ-MAT Transportation Services

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