



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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E 173.134

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

MAR 24 1999

Mr. Wayne S. Lester  
Manager, Safety Programs  
Allegheny Airlines, Inc.  
1000 Rosedale Avenue  
Middletown, PA 17057

Reference No. 99-0037

Dear Mr. Lester:

This is in response to your recent letter concerning differences in the text accompanying the ETIOLOGIC AGENTS--BIOMEDICAL MATERIAL label in our DOT Chart 10 (1994) and DOT Chart 11 (1998), entitled "Hazardous Materials Marking, Labeling & Placarding Guides." You asked if placing this label on a package in transportation indicates the package contains a Division 6.2 (infectious substance) hazardous material.

The answer is yes. Under 49 CFR 173.134(a)(1) of the DOT Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), a material meeting the definition of an etiologic agent in 42 CFR 72.3 of the Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) regulations also meets the definition of an infectious substance under the HMR. The ETIOLOGIC AGENTS--BIOMEDICAL MATERIAL label, depicted in 42 CFR 72.3(d)(1), is required by CDC to be displayed on the outside of a package containing an etiologic agent. Such a package is also required to display the INFECTIOUS SUBSTANCE label depicted in 49 CFR 172.432, unless otherwise excepted. For example, under § 173.134(b), an etiologic agent that is a biological product or a diagnostic specimen is not subject to any of the requirements in the HMR.

You also stated that sometimes your company is offered packages of donor organs for transport that display the ETIOLOGIC AGENTS--BIOMEDICAL MATERIAL label but do not display the INFECTIOUS SUBSTANCE label. You asked if these shipments are subject to the HMR. Shipment of a donor organ is not subject to the HMR unless the item as packaged contains a material that is otherwise subject to regulation, such as "Carbon dioxide, solid" (dry ice). For questions concerning the display of the ETIOLOGIC AGENTS--BIOMEDICAL MATERIAL label on such packages, I suggest you contact Jonathan Y. Richmond, PhD., Director, Office of Health and Safety, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Atlanta, GA 30333, (404) 639-2453.

I hope this satisfies your request. Should you have any further questions concerning the HMR, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned above the typed name.

Hattie L. Mitchell, Chief  
Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

# Allegheny

Airlines, Inc.

Wayne S. Lester  
Mgr. Safety Programs

Mr. Edward Mazzullo  
Director OHMS  
U.S. Department of Transportation  
400 7<sup>th</sup> Street, SW  
Washington, DC 20590

Re: DOT Chart 10 Confusion

Dear Mr. Mazzullo:

I am writing to ask for a written clarification on a placard, which appears in the DOT Chart 10. I am told that there is a new DOT Chart 11 available and I have ordered these charts, but in the meantime I need your assistance.

The DOT Chart 10 (dated February 1994) shows two labels under Class 6, Division 6.2. One is the Infectious Substance label and the other is a Biomedical Material label. The Biomedical Material label is the one giving our company trouble.

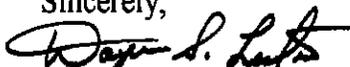
Our Flight Training Department instructs our pilots on the carriage of hazardous materials using the DOT Chart 10. Because the Biomedical Material label appears on the chart with the Infectious Substance label, our pilots believe this label to be a hazardous materials label. We have explained that this is an OSHA label and the mere appearance of the Biomedical Material label (or the Biohazard label) on a package does not indicate that the package is a hazardous material. This has not swayed the opinion of our flight crews and they continue to reject the shipment of donor organs simply because of the Biomedical Material label. We have reviewed 49 CFR 173.134, where the regulation talks about exceptions, however this does not satisfy our Flight Training Department concerning the appearance of the Biomedical Material label on the DOT Chart 10.

It would help us greatly if we could receive written confirmation from the DOT indicating that, although the Biomedical Material label does appear on the DOT Chart 10, this label appearing by itself on a package does not constitute a hazardous material.

Please reply to the attention of: Wayne Lester, Manager of Safety Programs, Allegheny Airlines, Inc., 1000 Rosedale Ave., Middletown, PA, 17057.

Your help in dealing with this matter is greatly appreciated.

Sincerely,

  
Wayne S. Lester

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1240 NJ  
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