



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

OCT 19 2016

Daniel M. Sims
Radiation Protection Manager
Spectrum Techniques
106 Union Valley Road
Oak Ridge, TN 37830

Ref. No. 16-0109

Dear Mr. Sims:

This responds to your June 15, 2016 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to hazardous materials training outlined in Part 172, Subpart H. Your questions are paraphrased and answered as follows:

Q1. A customer was shipped a single 0.25 μCi Cs-137 radioactive check source. The check source is considered an exempt consignment in accordance with § 173.436. Is the customer required to have hazardous materials training in accordance with Part 172, Subpart H in order to ship the material back to the manufacturer?

A1. No. As defined by § 173.403, a radioactive material means a material containing radionuclides where both the activity concentration and the total activity in the consignment exceed the values specified in the table in § 173.436 or values derived according to the instructions in § 173.433. If the check source does not meet the definition of radioactive material or any other hazard class, then it is not subject to the HMR. In this case, the customer would not be subject to the training requirements in Part 172, Subpart H.

Q2. A customer was shipped a single 5 μCi Cs-137 radioactive check source. The check source exceeds the value specified in § 173.436 and is therefore not considered an exempt consignment. Is the customer required to have hazardous materials training in accordance with Part 172, Subpart H in order to ship the material back to the manufacturer?

A2. No, as long as the customer is not considered a hazmat employee as defined by § 171.8. For purposes of the HMR, "hazmat employee" means a person who is employed by a hazmat employer and who, in the course of employment, directly affects hazardous materials transportation safety. An individual or private citizen does not meet the definition of a hazmat employee and is not required to have hazardous materials training. However, an

individual or private citizen must still comply with all applicable HMR requirements when offering hazardous materials to a commercial carrier for transportation in commerce. If the customer is considered a hazmat employee (e.g., a distributor, retailer, etc.), the person is fully subject to the training requirements in Part 172, Subpart H.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a large initial "D" and "K".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

SPECTECH

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§ 172
Training
16-0109*

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June 15, 2016

U.S. Department of Transportation
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Subject: Request for an interpretation on the need for the hazardous material training outlined in 49 CFR 172 Subpart H.

Dear Director:

I work for Spectrum Techniques and we are a manufacturer/distributor of radioactive check sources that fall under the U.S. NRC category of exempt material.

On occasion, we get customers that have ordered the wrong radioactive check source and want to return it. In discussion with numerous individuals, I have gotten conflicting answers regarding the need for our customers to have received hazardous material training in order to ship a radioactive check source back to us.

This letter is an official request for an interpretation on the need for the hazardous material training outlined in 49 CFR 172 Subpart H with regards to this matter.

Below are a couple of scenarios I would like to request clarification on:

Scenario 1:

A customer ordered a single 0.25 μCi Cs-137 radioactive check source. The check source contains an exempt quantity of Cs-137 and is considered an exempt consignment per § 173.436. The customer decided it was the wrong source and wants to return it to us.

Question 1:

The 0.25 μCi Cs-137 radiation check source is considered non-hazardous because it cannot be defined as hazardous material by any other criteria and does not exceed the value specified for Cs-137 in table § 173.436 (.27 μCi). Does our customer need to have received the hazmat training outlined in 49 CFR 172 Subpart H to ship the radioactive check source back to us? Even if it considered non-hazardous?

Scenario 2:

A customer has ordered a single 5 μCi Cs-137 radioactive check source. The check source contains an exempt quantity of Cs-137, but is not considered an exempt consignment per § 173.436. The customer decided it was the wrong source and wants to return it to us.

Question 2:

The 5 μCi Cs-137 radioactive check source is considered hazardous material because it exceeds the value specified for Cs-137 in table § 173.436 (.27 μCi). Does our customer need to have received the hazmat training outlined in 49 CFR 172 Subpart H to ship the radioactive check source back to us?

I appreciate your consideration of these questions and the time and effort your organization takes to provide guidance on questions such as mine. I look forward to your response.

If you have any questions or concerns please feel free to contact me at d.sims@spectrumtechniques.com or 865-482-9937.

Regards,



Daniel M. Sims
Radiation Protection Manager
Spectrum Techniques