



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

APR 20 2012

Mr. Denis Jacques
145 Fort Shantok Rd.
Uncasville, CT 06382

Ref. No: 11-0221

Dear Mr. Jacques:

This is in response to your request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the marking and labeling requirements for overpacks containing excepted packages of radioactive instruments and articles. Specifically, you cite Answer 2 (A2) in our interpretation letter #09-0235 dated January 8, 2010, and ask whether the sections referenced in that answer (§§ 173.448(g), 172.403(h) and 173.25(a)) apply to a package that is shipped in accordance with §§ 173.424 and 173.422.

The answer is no. In the January 8, 2010 letter, A2 was prefaced with the word "Generally" and was not intended to cover excepted packages. As specified in § 173.422, excepted packages of Class 7 (radioactive) material that are prepared under the provisions of certain sections, including § 173.424, are not subject to any additional requirements of the HMR except for those set forth in §§ 173.422 and 173.424. As such, and consistent with A2 in the January 8, 2010 letter, a radioactive instrument or article and its packaging must comply with the requirement specified in § 173.422(a), and be marked with "UN" and the four digit identification number.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

McIntyre
§173.448
§173.25
§173.404

Packagings & Overpacks
11-0221

From: Billings, Delmer (PHMSA)
Sent: Thursday, September 01, 2011 11:19 AM
To: Drakeford, Carolyn (PHMSA)
Cc: Betts, Charles (PHMSA); Supko, Ben (PHMSA); wilson, leandrew (PHMSA)
Subject: FW: Feedback: General Questions/Comments Regarding the PHMSA Enforcement Program

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

From: PHMSA-Feedback [mailto:PHMSA-Feedback]
Sent: Friday, August 26, 2011 4:28 PM
To: HM-Enforcement (PHMSA); PHMSA Webmaster
Subject: Feedback: General Questions/Comments Regarding the PHMSA Enforcement Program

I am writing for clarification of a letter interpretation issued by your office. It appears to me that the interpretation directly contradicts the regulations. I am hoping you can help me understand whether I am misreading the regulations or the interpretation or if the interpretation may missed the mark.

The letter of interpretation I am referring to is reference number 09-0235. Specifically A2 is what I am having a hard time understanding. The question and answer discuss whether carrying the "UN2911" marking of a box over to a pallet which the box(es) is loaded.

The answer references a number of paragraphs (173.448(g), 172.403(h) and 173.25(a)) within the subchapter and in the end states "Thus, the overpack must be marked, and labeled as required for each hazardous material it contains, unless markings and labels representative of each hazardous material in the overpack are visible." Assuming the packages being discussed are being shipped in accordance with 49 CFR 173.424, paragraph 173.422 states that these packages are not subject to any other requirement of the Subchapter, except as stated within that paragraph. If this is true, none of the paragraphs reference in the answer would be applicable to the package.

Yours truly,
Denis Jacques
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