



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

AUG 17 2005

Mr. Mark Kohorst
Senior Manager
Environment, Health and Safety
National Electrical Manufacturers Association, (NEMA)
1300 North 17th Street, Suite 1847
Rosslyn, VA 22209

Reference No. 05-0174

Dear Mr. Kohorst:

This is in response to your July 19, 2005 letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to radioactive articles and mercury. You ask for clarification concerning a June 14, 2005 letter (Ref: 05-0086) issued from this office to your company on lamps that contain both mercury and a limited quantity radioactive material. Your scenarios and questions are paraphrased and answered as follows:

Q1. Is the following statement of understanding correct?

“If the lighting product contains mercury and qualifies for the exception from the HMR in § 173.164(b) or (e), we may at our discretion, label each package in such shipment as, “Mercury contained in manufactured articles, UN2809”; as long as the shipping requirements for multiple hazard, limited quantity, Class 7 provisions in § 173.423 are met.”

A1. Yes, your understanding is correct.

Q2. Is the following statement of understanding correct?

“If the lighting product contains mercury and does not qualify for the exception from the HMR in § 173.164(b) or (e), we must label each package in such shipments as, “Mercury contained in manufactured articles, UN2809”;



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173.423

as long as the shipping requirements for multiple hazard, limited quantity, Class 7 provisions in § 173.423 are met.”

A2. Yes, your understanding is correct.

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Gorsky". The signature is written in a cursive style with a large initial "S" and "G".

Susan Gorsky
Acting Director
Office of Hazardous Materials Standards



Satterthwaite
§173.423
RAM
05-0174

July 19, 2005

Ms. Susan Gorsky, Acting Director
Office of Hazardous Materials Standards
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Ms. Gorsky:

Thank you for your letter dated 14 June 2005 (Reference No. 05-0086), in response to our request regarding the applicability of HMR 49 CFR Parts 170 – 180 to radioactive articles and mercury. I have replaced Ron Runkles as the liaison for this issue within NEMA and would like to verify our interpretation of your answers to the questions Ron posed in his letter to PHMSA dated 7 April 2005. Would you please review the following example involving products containing both radioactive materials and mercury and indicate whether our understanding is correct?

Each article contains 60 mg of mercury, packaged at 12 articles per package for a total of 0.72 grams of mercury per package. Each article also contains radioactive thorium at 24 Becquerels per article, for a total of 288 Becquerels per package. A typical consignment of 48 such packages exceeds the activity limit for exempt Class 7, UN2911 consignments.

As provided by Answer A2 of your recent response, the shipper may choose to forgo use of the non-mandatory exception of § 173.164(e) for mercury contained in manufactured articles (at less than 1 pound of mercury per package), and may properly mark each package of the consignment with UN2809. The consignment may be properly transported in compliance with § 173.423 for multiple hazard, limited quantity, Class 7 materials.

Similarly, if the above consignment were to be shipped by domestic air, the shipper may also choose to forgo use of the non-mandatory exception of § 173.164(b) for mercury contained in manufactured articles (at less than 100 mg of mercury per article and less than 1 gram of mercury per package), and mark each package with UN2809. The consignment may be properly transported in compliance with § 173.423, as long as the phrase "limited quantity radioactive material" appears on the shipping papers per § 172.204(c).

National Electrical
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Susan Gorsky
July 19, 2005
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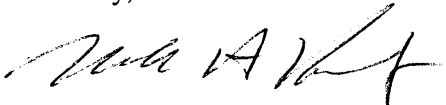
To summarize,

- 1) If the lighting product contains any mercury and qualifies for the exception from the HMR in 49 CFR 173.164(b) or (e), we may, at our discretion, label each package in such shipments as, "Mercury contained in manufactured articles, UN2809"; as long as the shipping requirements for multiple hazard, limited quantity, Class 7 provisions are met.
- 2) If the lighting product *contains any mercury and does not qualify* for the exception from the HMR in 49 CFR 173.164(b) or (e), we must label each package in such shipments as, "Mercury contained in manufactured articles, UN2809"; again as long as the shipping requirements for multiple hazard, limited quantity, Class 7 provisions are met.

I would be grateful if you would respond to this letter as soon as it is convenient. I am hoping to arrange a face-to-face meeting later this summer involving you and me and representatives of the NEMA companies most affected by DOT's labeling provisions. One of our planned topics of discussion will be any remaining uncertainty related to the UN 2809 labeling issue, so it would be helpful to have your answer beforehand. We have more general concerns in this area as well and look forward to discussing them with you.

Thank you again for your consideration in this matter.

Sincerely,



Mark Kohorst
Senior Manager
Environment, Health & Safety