



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

JUN 14 2013

Mr. Lee R. Zwiefelhofer
Senior Logistics/Hazmat Specialist
Detector Electronics Corporation
6901 West 110th Street
Minneapolis, MN 55438

Ref. No.: 13-0080

Dear Mr. Zwiefelhofer:

This is in response to your April 10, 2013 email requesting clarification on the definition of "Consignment" as it is used in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Class 7 (Radioactive) material. In your letter you describe a scenario in which you ship (consign) a product that contains Kr-85. When this product is shipped in quantities of six (6) or less, the consignment remains below the exempt consignment activity limit shown in § 173.436. Your questions are paraphrased and answered below. For the purposes of our response we assume that in all cases your product exceeds the activity concentration limit for Kr-85.

Q1. Would a consignment of four (4) orders of six (6) products each (resulting in a total of 24 products) containing Kr-85 that originate from the same consignor, are picked up and initially transported on the same conveyance, but going to different consignees exceed the exempt consignment activity limit?

A1. Yes, the consignment exceeds the exempt consignment activity limit and meets the definition of a Class 7 (Radioactive Material) (§ 173.403). While the products are destined for different consignees, all of the products are offered for transport from the same consignor at the same time, on the same conveyance.

Q2. Can a single consignment of 24 products containing Kr-85 originating from one consignor and destined for one consignee be separated into four (4) separate consignments by creating four (4) separate shipping papers of six (6) products per consignment?

A2. If the 24 products are offered from one consignor on the same conveyance, at the same time, they are considered one consignment. It is not acceptable to create 4 separate shipping documents and to declare it as 4 separate consignments in order to avoid compliance with the HMR.

Q3. Your company receives four (4) orders of six (6) products, each containing Kr-85. This is an international air consignment using a freight forwarder. All 24 products will be

picked up from the same consignor, but are destined for different consignees. All of the products will be offered by the same consignor and will be picked up at the same time by the same carrier. Would this exceed the exempt consignment activity limit?

A3. As in Q1, since the 24 products originate from the same consignor and are transported on the same conveyance, the consignment exceeds the exempt consignment activity limit and meets the definition of a Class 7 (Radioactive Material) (§ 173.403).

Q4. Your company receives one (1) order for 24 products containing the Kr-85. This is an international air consignment using a freight forwarder. Can the order be broken up into four (4) separate consignments of six (6) products per consignment by obtaining four (4) different air waybill numbers from the freight forwarder, thus creating different consignments, even though all the entire order will be picked up at one location, from a single consignor and destined to a single consignee?

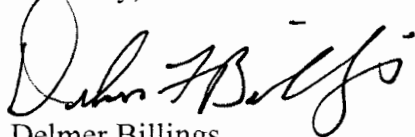
A4. As in Q2, if the 24 products are being shipped together from one consignor on the same conveyance, they must be considered one consignment. It is not acceptable to create 4 separate shipping documents and to declare it as 4 separate consignments in order to avoid compliance with the HMR

Q5. Since the definition of consignment as it is used in § 173.403 does not limit a carrier from transporting multiple consignments on the same conveyance, even if the activity level from all of these consignments together would exceed the exempt consignment activity limit, would it be acceptable for a single consignor to offer multiple consignments at the same time and still remain below the exempt consignment activity limit?

A5. We do not require a carrier to account for the accumulation of multiple consignments that individually do not meet the definition of radioactive material. However, we do require consignors who are familiar with the items being offered for transport, to properly class all of the items that they are shipping together.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,



Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Wednesday, April 10, 2013 5:05 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Requesting Formal Letter of Interpretation 173.403, 173.436

Learg
\$ 171.8
2 173.403
3 173.436
Definitions
13-0080

Hi Carolyn,

This caller requested we submit his e-mail as a formal letter of interpretation.

Thanks,
Victoria

From: Zwiefelhofer, Lee R CCS [mailto:Lee.Zwiefelhofer@det-tronics.com]
Sent: Wednesday, April 10, 2013 11:40 AM
To: INFOCNTR (PHMSA)
Subject: Requesting Formal Letter of Interpretation 173.403, 173.436

Dear Sir or Madam:

Detector Electronics Corporation is requesting a formal Letter of Interpretation for the definition of "Consignment" in paragraph 173.403 Definitions specifically as it relates to Table 173.436 and the "Activity limit for exempt consignment" for Class 7 hazardous materials.

The definition given for a consignment under CFR 49, paragraph 173.403 states that "Consignment means a package or group of packages or load of radioactive material offered by a person for transport in the same shipment".

This definition seems to leave a fair amount of room for interpretation and I would like formal clarification on just exactly what the boundaries are for shipments and what the definition of "same shipment" is within the definition of "consignment" when shipping radioactive materials that fall under the activity limit for exempt consignment in Table 173.436 for class 7 materials.

Examples:

If Detector Electronics has a product line that **remains under the activity limit for exempt consignment given in Table 173.436 for Kr-85 when shipping 6 each or less** of a particular product and does not otherwise meet the definition of a hazardous material in paragraph 171.8, what are the limitations for the scenarios as described below:

1. Detector Electronics gets four (4) Factory Orders of 6 products each containing the Kr-85. The shipments will be made using UPS Ground. They are all picking up from one location, from same consignor, going to different consignees, shipping on the same day, getting picked up at the same time by the same carrier. Can UPS pick up all of these 4 consignments at the same time?
2. Detector Electronics gets one (1) Factory Order of 24 products containing the Kr-85. The shipment will be made using UPS Ground. Can the Factory Order be broken up into 4 separate UPS ground shipments of 6 each with different tracking numbers creating different consignments all picking up at one location, from same consignor going to the same consignee, shipping on the same day, getting picked up at the same time with the same carrier and still comply with the exempt consignment definition?

3. Detector Electronics gets four (4) Factory Orders of 6 products each containing the Kr-85. The shipment is an international air shipment using a freight forwarder. They are all picking up from one location, from same consignor, going to different consignees, shipping on the same day, getting picked up at the same time by the same carrier. Can the freight forwarder's nominated carrier pick up all 4 of these consignments at the same time?
4. Detector Electronics gets one (1) Factory Order of 24 products containing the Kr-85. The shipment is an international air shipment using a freight forwarder. Can the Factory Order be broken up into 4 separate shipments of 6 each by getting 4 different House Air Waybill (HAWB) numbers from the freight forwarder creating different consignments all picking up at one location, from same consignor going to the same consignee, shipping on the same day, getting picked up at the same time with the same carrier and still comply with the exempt consignment definition?

I have given just a few examples of a wide variety of scenarios that Detector Electronics or any other company might get on any given day. One freight forwarder or small parcel carrier could pick up several consignments (to the same consignee or to different consignees) as described above combining the exempt consignments of class 7 together on one vehicle. This could happen through-out the supply chain. Several freight forwarders could move exempt consignments of the class 7 to an airline from several consignors going to different consignees and they could all get loaded onto one plane under one Master Air Waybill.

Since it would seem by the DOT's Consignment definition that the multiple consignments from one company or different companies of Class 7 exempt consignments could all be put together on one vehicle at the same time during normal daily pick-ups, it might therefore also be acceptable for one company to break up one factory order into multiple consignments (different tracking numbers, different bill of lading numbers, different House Air Waybill Numbers, etc.) to get the activity level of each consignment under the limit as specified in table 173.436 and still comply with the intent of the consignment definition for daily shipments.

I would appreciate detailed clarification on the consignment definition under 173.403 and it's usage as related to shipments of Class 7 material with activity limits that are at or under those listed under Table 173.436 exempt consignments per the examples given above.

Thank you for your assistance in this matter.

Regards,

Lee R. Zwiefelhofer
Senior Logistics/HazMat Specialist
Detector Electronics Corporation
6901 West 110th Street
Minneapolis, MN 55438
Phone Direct: 952-946-6467
Fax: 952-829-8750
lee.zwiefelhofer@det-tronics.com