



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

AUG 8 2006

Mr. Michael S. Fiddes
Environmental, Safety & Health Integration
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P.O. Box 748, Mail Zone 6876
Fort Worth, TX 76101-0748

Ref. No. 06-0127

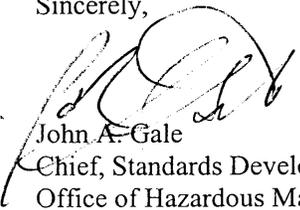
Dear Mr. Fiddes:

This responds to your May 16, 2006 letter requesting clarification on the use of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air. Specifically, you ask if the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) authorize use of the "Radioactive Material, Excepted Package" label for motor vehicle or highway-only transportation.

Section 171.11 of the HMR authorizes the use of the ICAO Technical Instructions for transportation by air and by motor vehicle either before or after transportation by aircraft when the hazardous material is packaged, marked, labeled, described and certified on a shipping paper and otherwise in condition for shipment as required by the ICAO Technical Instructions. Based on §172.401(c)(3), the "Radioactive Material, Excepted Package" label required under the ICAO Technical Instructions is not prohibited under the HMR and would be acceptable for use under the provisions of §171.11 for motor vehicle transportation either before or after being transported by aircraft, as well as highway-only shipment that does not involve transportation by aircraft.

I hope this answers your inquiry.

Sincerely,



John A. Gale

Chief, Standards Development
Office of Hazardous Materials Standards



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172.401(c)(3)

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May 16, 2006

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Director Edward T. Mazzullo (PHH-10)
Office Of Hazardous Material Standards
Pipeline & Hazardous Materials Safety Administration
U.S. Department Of Transportation
400 7th Street SW Room 8430
Washington, D.C. 20590-0001

Dear Sir,

Our company receives and ships goods which are properly described as "Radioactive Material, Excepted Package-Instruments." Typically the goods so classified are aircraft targeting pods containing Am-241, sealed source, not greater than 5 micro curies/source, not greater than 10 micro curies/device. Sometimes these pods are shipped by air, and sometimes by highway only. The same pod may be shipped back and forth many times. The International Civil Aviation Organization (ICAO) Technical Instructions 2005-2006 Edition Part 5 Chapter 3 Paragraph 2.11(e) and current Figure 5-28 specify that the 'Radioactive Material, Excepted Package' label is currently recommended for applicable air shipments. This label becomes mandatory on January 1, 2007 for applicable air shipments. DOT regulations do not expressly authorize this label other than, pursuant to 49 CFR 171.11, for highway transportation incident to air transportation. It would be desirable for harmonization with international regulations for the U.S. DOT to adopt this handling label for domestic highway transportation.

- There is no DOT hazard or handling label applicable to shipment of 'Radioactive Material, Excepted Package-Instruments' UN2911 when shipped exclusively by ground. The presence of this label on applicable containers would be of benefit to facilitate the proper identification, handling, and storage of these items by receiving and warehousing personnel. It would also simplify compliance for packaging and shipping personnel and therefore increase transportation safety if these labels could be applied to applicable packages regardless of air or highway mode of transportation. We would, therefore, like to be able to use these labels for these pods or other similarly classified goods regardless of whether the pod is being shipped by air or exclusively by highway.

We believe that use of the ICAO label for highway-only shipments should not be prohibited under 49 CFR 172.401 since the label does accurately represent the material hazard and the format of the ICAO label does not conflict with or cause confusion with other hazard or handling labels or DOT markings. It may be that 49 CFR 172.401(c)(3) authorizes use of the ICAO label, although its applicability to ground-only shipment is not completely clear.

Please confirm that use of the ICAO 'Radioactive Material, Excepted Package' label is permitted for highway-only transportation.

Thank you for your timely attention. If you have any questions, please contact me at 817-777-6490.

Very respectfully,

M. S. Fiddes, CHMM, REP

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