



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

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR -8 2011

Mr. John V. Currie
Currie Associates, Inc.
10 Hunter Brook Lane
Queensbury, NY 12804

Ref. No. 11-0017

Dear Mr. Currie:

This responds to your January 18, 2011 letter regarding exceptions for radiation detectors under § 173.310 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you are concerned there is no instruction or direct reference to these exceptions in the § 172.101 Hazardous Materials Table (HMT). You also inquire whether these exceptions are intended for domestic use only and whether PHMSA has submitted a proposal to the UN Subcommittee of Experts (UNSCOE) on the Transport of Dangerous Goods to include these exceptions in the UN Model Regulations.

Your understanding is correct. There is neither a “radiation detector” hazardous materials description nor a reference to § 173.310 in the Column 8 packaging authorizations of the HMT. These exceptions were adopted under HM-233A (75 FR 27205; May 14, 2010) to incorporate provisions from special permits suitable for inclusion in the HMR, which applies to the transportation of hazardous material within the United States. We have not submitted a proposal to the UNSCOE to adopt these exceptions. It is the shipper’s responsibility to be aware of any and all provisions for packaging and preparation of gases (see Subpart G of Part 173) that are applicable to the hazardous material being shipped. A shipper can accomplish this by providing employees with a proper training program in accordance with the training requirements in Subpart H of Part 172.

If you believe a rulemaking change is warranted, we invite you to file a petition in accordance with § 106.95 including all information (see § 106.100) needed to support your petition.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division



Der Kinderen
§172.101
§173.310
Exceptions
11-0017

CURRIE ASSOCIATES, INC.
THE GLOBAL COMPLIANCE PROFESSIONALS

January 18, 2011

Mr. Shane Kelley
International Standards Specialist
Office of Hazardous Materials Safety
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave. SE
Washington, DC 20590

Dear Mr. Kelley:

I greatly appreciate the efforts of PHMSA to incorporate Special Permits into regulations as set out in Docket No. PHMSA-2009-0289 (HM-233A) Final Rule of May, 14, 2010. I understand these revisions will eliminate the need for numerous requests for special permits and renewals.

Of particular interest, I note the inclusion of a new section within Part 173, to provide exceptions for radiation detectors at §173.310 included in this Final Rule. The affected special permits incorporated into this section include DOT-SP 9030, 9940, 10407, 12131, 12415, 13026, 13109, and 13244. While I understand the provisions of §173.310 for such radiation detectors, radiation sensors, electron tube devices, or ionization chambers, herein referred to as "radiation detectors" that contain only Division 2.2 gases, I am at a loss to determine how a user of the HMR would be directed to find and use these exceptions as authorized. I have conducted a search of Column (8A) of the Hazardous Materials Table at §172.101, which provides exceptions per Part 173 (§173.***), and find no entry referring to "310" thus indicating §173.310. For example, I find no proper shipping name in Column (2) of the Table for "Radiation detectors" that would refer the user to the exceptions authorized at §173.310. Is this an error in the rulemaking?

Secondly, has PHMSA presented a proposal to the UN Subcommittee on the Transport of Dangerous Goods to include the exceptions as provided at §173.310 or are these exceptions intended to be authorized for domestic transportation only? If there is no corresponding description and/or there are no such exceptions in the UN Model Regulations, should there be an entry with a "D" in Column (1) for "Radiation detectors" and since there are no exceptions authorized for shipping papers, should there not be a hazard class assigned along with such a proper shipping name?

Thank you for your prompt attention to this matter as it may have significant impact on safe transportation of such devices. I seek and await your expeditious reply.

Sincerely,

A handwritten signature in black ink, appearing to read "John V. Currie". The signature is fluid and cursive, with a large initial "J" and "C".

John V. Currie
Chief Technical Officer