



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

SEP 26 2000

Mr. Craig Konieczny
H&G Inspection Company, Inc.
P.O. Box 721856
Houston, Texas 77272

Ref. No. 00-0248

Dear Mr. Konieczny:

This is in response to your August 31, 2000 letter requesting clarification regarding the requirements for an overpack under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that you transport radioactive exposure devices that, in themselves, are approved Type B containers. The devices are packed in open containers (tupperware type without a lid) to prevent movement during transportation to a job site in your enclosed company trucks. You state that the hazard warning label on an exposure device is partially visible inside the unlabeled open-top tupperware type container. You state that you believe the tupperware container is not required to be labeled because it does not qualify as an overpack as defined in § 171.8 and because the device is not being offered for transportation to another carrier. Your company was cited by the State of Utah for not marking and labeling an overpack in accordance with § 173.25(a) of the HMR. Specifically, you ask whether your open tupperware type container qualifies as an overpack.

The answer is yes, based on the information provided to this office. An overpack, as defined in § 171.8, means an enclosure used by a single consignor to provide protection or convenience in handling of a package or to consolidate two or more packages. Each inner package must be marked and labeled in accordance with the HMR. In addition, when an overpack is used, it must be marked with the proper shipping name and identification number, and labeled for each hazardous material it contains unless the markings and labels representative of each hazardous material in the overpack are visible. The overpack must also be marked with a statement indicating that inside (inner) packages comply with prescribed specifications when specification packaging are required.

Lastly, a company falls within the scope of the HMR if it transports hazardous materials for commercial purposes, such as retail sale, or for furtherance of a commercial endeavor, such as supplies used in operation of the business. A private carrier is required to comply with the requirements contained in the HMR unless a specific exception is provided. Hazard warning labels and package markings are used to communicate the hazards of the hazardous material contained within the package not only to carrier personnel but also to enforcement and emergency responders when hazardous materials are involved in transportation incidents.

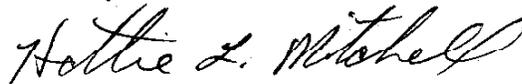


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173.25

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell".

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards

cc: Ms. Gwyn Galloway
Utah Radiation Control Board

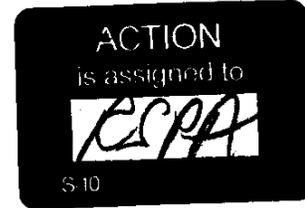


H & G INSPECTION COMPANY, INC.

P.O. BOX 721856 • 281-498-6517
HOUSTON, TEXAS 77272

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Packagings
Overpacks
RAM
00-0248



August 31, 2000

U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

To Whom It May Concern:

H&G Inspection Company, Inc., is an industrial radiography firm headquartered in Houston, Texas, with offices across the country. We have recently been working in Utah where we received a notice of violation from the Utah Department of Environmental Quality (UDEQ) over a supposed breach of U.S. DOT requirements. H&G believes that the violation is unwarranted, based upon our interpretation of the existing federal regulations.

The regulations in question relate to the transport of radioactive material in "overpacks". H&G transports radioactive exposure devices in the back of enclosed company trucks. The devices do not require an overpack for transportation to our job site, but we routinely use an open container (tupperware type without a lid) to place the device in to prevent movement during shipment. The exposure device is properly labeled (it is an approved Type B container itself), and still partially visible. Our container is not labeled as such, but we hardly think it classifies as an overpack.

The State of Utah and H&G Inspection has agreed to wait for a written ruling on the interpretation of the regulations from the U.S. DOT in this matter for final arbitration. Enclosed is a copy of their initial write-up to H&G, and our response. Thank you for your time in this matter.

Sincerely,

Craig Konieczny
Corporate Assistant
Radiation Safety Officer

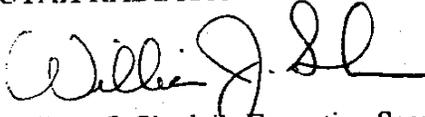
July 25, 2000

H & G Inspection Company, Inc.

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Please note, this violation was previously cited in a Notice of Violation dated July 30, 1999. The violation occurred while in the State of Utah under reciprocity with Radioactive Materials License No. IR192-16 issued by the State of New Mexico, Environment Department, Hazardous & Radioactive Materials Bureau. This is the second time this item of noncompliance has been identified. We now expect you to pay particular attention to corrective action which will be taken to avoid noncompliance.

UTAH RADIATION CONTROL BOARD



William J. Sinclair, Executive Secretary

cc: Gary L. Edwards, M.S., C.H.E.S., Health Officer/Director
Southwest Utah Public Health Department

Colorado Department of Public Health and Environment
Radiation Control Division