



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

2007
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400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. David A. Repka
Winston & Strawn, LLP
1700 K Street, N.W.
Washington, D.C. 20006-3817

Ref. No.: 06-0178

Dear Mr. Repka:

This is in response to your July 17, 2006 letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of pistols equipped with tritium gun sights. According to your letter, the pistols are carried by plant security officers for the performance of duties in accordance with a Nuclear Regulatory Commission approved physical security plan for a civilian nuclear power plant. Please accept my apology for our delay in responding and any inconvenience this may have caused.

Your letter suggests two transportation scenarios: (1) transportation of several weapons as cargo on public roads, such as for delivery from a vendor to a power plant; and (2) transportation of a single weapon by an officer carrying a weapon during the routine course of authorized duties. Each scenario is addressed below.

Transportation as Cargo on Public Roads

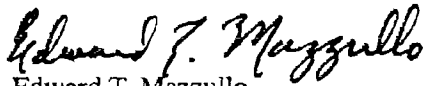
Under § 173.403 of the HMR, "radioactive material" is defined as any material containing radionuclides where both the activity concentration and the total activity in the consignment exceed the values specified in the table in § 173.436 or values derived according to the instructions in § 173.433. In accordance with this definition, a pistol equipped with the tritium gun sight described in your letter is a radioactive material for purposes of the HMR. When transported as cargo by motor vehicle over public roads, such as for delivery from a vendor to a power plant, the pistols are subject to all requirements of the HMR applicable to such transportation.

Transportation by a Security Guard

The HMR apply to the commercial transportation of hazardous materials (see § 171.1). Transportation of a weapon by a security officer with a valid license or permit for the weapon is not commercial transportation when the officer is performing authorized duties. Thus, transportation of a pistol by a security officer in a company or personal vehicle during routine patrols of plant facilities, including patrols on public roads around the facility, is not subject to HMR requirements.

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

Sincerely,

Handwritten signature of Edward T. Mazzullo in cursive script.

Edward T. Mazzullo
Director, Office of Hazardous Materials Standards