



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

MAR 7 2007

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

Timothy M. Gallagher  
Monticello Nuclear Generating Plant  
2807 West County Road 75  
Monticello, Minnesota 55362-9637

Ref. No.: 07-0005

Dear Mr. Gallagher:

This is in response to your December 13, 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. Your questions are summarized and answered as follows:

Q1. What are the applicable requirements, if any, when our officers are carrying their firearms while on duty, which includes security patrols in a vehicle on private property and public property – including highways?

A1. 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.

Q2. What are the applicable requirements, if any, when our employees transport these firearms in cases to a firearms range for qualification, which includes traveling in a vehicle on private property and public property, including highways?

A2. 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 delivery from a power plant to a firearms range for qualification, the pistols are subject to all requirements of the HMR applicable to such transportation.



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171.1  
173.403  
173.424

Q3. What are the applicable requirements, if any, when these firearms are shipped to the manufacturer for repair?

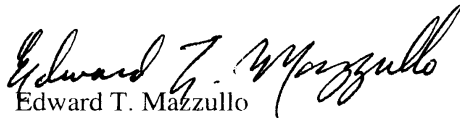
A3. See A2.

Q4. What are the applicable monitoring requirements (i.e., detection of leaks), if any, for the tritium sources.

A4. A radioactive instrument or article offered for transportation as an excepted package must satisfy the activity limits specified in § 173.424. The active material must be completely enclosed by non-active components. An instrument or article that is leaking radioactive material may not be offered for transportation in commerce, unless that instrument or article no longer contains any radioactive material.

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

Sincerely,

A handwritten signature in black ink, reading "Edward T. Mazzullo". The signature is written in a cursive style with a large, stylized initial "E".

Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards



*Eichenlaub  
§ 171.1  
Applicability  
07-0005*

December 13, 2006

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Material Standards  
U.S. DOT/PHMSA (PHH-10)  
400 7<sup>th</sup> Street S.W.  
Washington, D.C. 20590-0001

Dear Sir:

The Nuclear Management Company LLC, operates nuclear power stations in Wisconsin, Minnesota and Michigan. We are licensed under 10 CFR parts 20 and 50 to handle radioactive material. Additionally, as required by 10 CFR 73, we have Security Officers who carry firearms in the performance of their duty. These firearms are equipped with night-sights containing Tritium (H3) and are categorized as UN2911 by the manufacturer. 49 CFR 172.101 lists UN2911 as "Radioactive material, excepted package-instruments, or articles." Additionally, licensing exemption exists for these night-sights in 10 CFR 30.19(a).

We are requesting assistance from you for the following questions:

- 1) What are the applicable requirements, if any, when our officers are carrying their firearms while on duty, which includes traveling in a vehicle on private property and public property – including roadways?
- 2) What are the applicable requirements, if any, when our employees transport these firearms in cases to a firearms range for qualification, which includes traveling in a vehicle on private property and public property – including roadways?
- 3) What are the applicable requirements, if any, when these firearms are shipped to the manufacturer for repair?
- 4) What are the applicable monitoring requirements (i.e., detection of leaks) if any, for the tritium sources?

Your assistance in helping ensure we are in full compliance with the regulations is greatly appreciated and we look forward to receiving your responses as soon as possible. Thank you.

Sincerely,

Timothy M. Gallagher  
Security Manager  
Monticello Nuclear Generating Plant