



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

OCT 1 2007

Ms. Crystal Callaway
Missouri Gas Energy
3420 Broadway
Kansas City, MO 64111

Ref. No. 07-0176

Dear Ms. Callaway:

This responds to your August 29, 2007 letter requesting clarification of requirements for transport of manufactured articles containing mercury under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether gas meters with switches containing mercury transported in accordance with § 173.164(c)(2) are subject to the HMR. Additionally, you request a definition of "subchapter" as it pertains to § 173.164(c)(2).

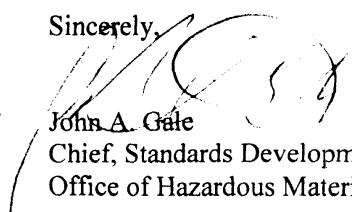
You state that your company transports gas meters with an electronic device containing a small mercury switch attached to each gas meter. You also state each switch contains 1.16 g (0.04 ounces) of mercury.

Based on the information provided, the gas meters would not be subject to the requirements of the HMR. In accordance with § 173.164(c)(2), "thermometers, switches and relays, each containing a total quantity of not more than 15 g (0.53 ounces) of mercury, are excepted from the requirements of the subchapter if installed as an integral part of a machine or apparatus and so fitted that shock of impact damage, leading to leakage of mercury, is unlikely to occur under conditions normally incident to transport."

Regarding the definition of "subchapter" as it pertains to § 173.164(c)(2), "subchapter" refers to the regulations contained in Title 49, Subtitle B, Chapter I, Subchapter C, Parts 171-180 of the Code of Federal Regulations (CFR), more commonly referred to as the Hazardous Materials Regulations (HMR).

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,


John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



070176

173.164(c)(2)



MISSOURI GAS ENERGY

3420 Broadway • Kansas City, MO • 64111 • (816) 756-5261

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§173.164(c)(2)

Applicability
07-0176

August 29, 2007

Pipeline and Hazardous Materials Safety Administration
Office of Chief Counsel
1200 New Jersey Avenue, SE
East Building, 2nd Floor (PHC)
Washington, DC 20590

RE: Letter of Interpretation

I am requesting a formal letter of interpretation for regulation 49 CFR 173.164 (c) (2), which allows for mercury switches containing a total of not more than (0.53 ounces) of mercury, excepted from subchapter requirements if installed as an integral part of a machine or apparatus. Also, to be included in the letter a definition for "subchapter".

We are a gas utility company that either transports or ships for repair gas meters that have electronic reading devices attached to the top of the meter that contains a small mercury switch (weighing 1.16 g or 0.04 ounces) in one compartment and a small lithium battery in the other compartment similar in size to an AA alkaline battery. Both the mercury switch and lithium battery are encapsulated by a gel material which acts as a barrier for spillage and a shock absorber during transportation.

The meters are shipped in a wire caged basket placarded with the Corrosive Placard on opposing sides with the UN2809 displayed and shipped on a Hazardous Materials Bill of Lading when transporting or shipping the meters.

In reading the regulation, my interpretation of the exception was based on packaging requirements and did not include placarding requirements. However, is subchapter includes all of 49 CFR than I am assuming this would also exempt us from placarding requirements?

My request is to provide us with interpretation of 49 CFR 173.164 (c) (2) that supports this exception to allow us to evaluate whether we need to continue with our current procedure of placarding, and having a licensed Hazardous Materials transportation carrier or if placarding is not required, than any transporter could carrier the meters without placarding as long as the shipment is accompanied by a Hazardous Materials Bill of Lading?

Thank You,

Crystal Callaway, BSN, RN, CHMM
Environmental Compliance Specialist