



U.S. Department
of Transportation

Research and
Special Programs
Administration

JAN 27 2000

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

Mr. Steven J. Groseclose
Piper, Marbury, Rudnick, & Wolfe, L.L.P.
1200 19th Street, NW
Washington, D.C. 20036-2412

Ref. No. 99-0323

Dear Mr. Groseclose:

This is in reference to your letter concerning highway shipments of articles containing polychlorinated biphenyls (PCBs) and mercury-containing fluorescent lighting tubes under the Hazardous Materials Regulations (HMR, 49 CFR Parts 171-180).

You are correct in your understanding that a transformer containing a PCB laden dielectric fluid is only regulated by highway as a hazardous substance if the one pound reportable quantity (RQ) of PCBs is met or exceeded in one package at a concentration by weight of 20 ppm or greater. If you meet or exceed the RQ per package and are transporting PCBs by highway, the packing group for this shipment would read "PG III" instead of "PG II" as specified in § 172.101(f).

Additionally, you requested confirmation that mercury-containing lamps which are considered universal wastes by the Environmental Protection Agency (EPA) are not considered hazardous wastes by the Department of Transportation and ask whether these lamps are regulated under the HMR. Universal wastes do not meet the definition of a hazardous waste in § 171.8 because universal wastes are not subject to EPA's hazardous waste manifest requirements. Mercury is only regulated in air and water shipments and mercury contained in manufactured articles is only regulated in air shipments. Thus, if your highway shipment of mercury-containing lamps does not meet the definition of a hazardous substance or any other hazard, then it is not regulated by the HMR.

I hope this satisfies your request.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



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WRITER'S INFORMATION

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December 3, 1999

HAND DELIVERY

Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

ATTENTION: Delmer F. Billings

Re: Request for Regulatory Guidance on Transportation of Electrical
Transformers, PCBs, and Discarded Mercury-Containing Fluorescent
Tubes

Dear Mr. Mazzullo:

I am writing on behalf of Arizona Public Service Company (APS), an electric utility company that transports by public highway, among other materials, electrical transformers, non-bulk packages of dielectric fluid containing low concentrations of polychlorinated biphenyls (PCBs), and recyclable mercury-containing fluorescent lighting tubes, in the course of providing and maintaining electric service to its customers. I request written confirmation of the Company's understanding of the requirements of the Hazardous Materials Regulations (HMR) as they apply to these materials.



ISSUES

I. HMR Status of Transformers

Electrical transformers use mineral oil-based dielectric fluids that may contain PCBs at low concentrations. PCBs and PCB articles are regulated under the Toxic Substances Control Act (TSCA) and are not considered hazardous wastes under the federal hazardous waste program. EPA's 40 C.F.R. Part 261 hazardous waste manifest requirements do not apply, and PCBs and PCB articles therefore do not meet DOT's definition of hazardous waste. No other potential hazardous materials are present in the dielectric fluid.

APS transports its transformers only by public highway. The transformers are drained prior to transport or are transported with dielectric fluid present, depending upon maintenance circumstances. *We request your confirmation that transformers containing dielectric fluid or residues of dielectric fluid are not regulated under the HMR when transported by public highway when they do not contain the 1 pound reportable quantity (RQ) of PCBs at a concentration by weight of 20 ppm or greater.*

II. Packing Group for Hazardous Substance Quantity PCBs Transported by Public Highway

When PCB-containing dielectric fluids or other PCB-containing materials are shipped in a package at a concentration equal to or exceeding 20 ppm and in a quantity meeting the 1 pound RQ, the materials meet the HMR's definition of hazardous substance, and APS manages them as hazardous materials. The PCB listing in the Hazardous Material Table is preceded by the letters "A" and "W". Therefore, pursuant to 49 C.F.R. § 172.101(f), APS ships these materials by public highway in conformance with the HMR's requirements for Packing Group III rather than the Packing Group II designation listed in the Hazardous Materials Table. *Please confirm that Packing Group III is appropriate for PCBs in hazardous substance quantities/concentrations transported by public highway.*

III. HMR Status of Universal Waste Mercury-Containing Fluorescent Lighting Tubes

APS transports by public highway used mercury-containing fluorescent lighting tubes in the course of routine maintenance and energy efficiency ("demand side management") programs. Under EPA's Universal Waste Rule, a "universal waste" is not subject to EPA's hazardous waste manifest requirements. EPA's regulations allow authorized states to add materials, such as mercury-containing fluorescent lighting tubes,

to the list of universal wastes. Arizona has received final authorization to implement the universal waste program and has in fact added mercury-containing fluorescent lighting tubes to the list of universal wastes in Arizona. *Please confirm that in authorized states that have adopted such materials as universal wastes, they are not considered hazardous wastes under the HMR. In addition, please confirm that mercury-containing fluorescent tubes are not regulated under the HMR when they are transported by public highway and do not qualify as hazardous substances.*

* * * * *

Thank you very much for your consideration of these issues. If I can provide additional information, please call me at (202) 861-6455.

Very truly yours,



Steven J. Groseclose

cc: James J. Hamula, Gallagher & Kennedy, P.A.
Karilee Ramaley, Arizona Public Service Company
David Martinez, Arizona Public Service Company