

From: John Nicholson
To: MARATHON David
Date: Mon, Jul 24, 2006 10:14 AM
Subject: Re: DOT Requirements

54-28526-01
03031742/2006001

Dear Ms. Wein,

Thank you for your timely reply regarding how Marathon Watch is complying with DOT requirements. Please note some of the applicable DOT regulations, specifically 49 CFR 173.422, were revised on January 26, 2004. The DOT link I provided in my earlier email may not have included the most recent edition of the 49 CFR regulations. I apologize for any confusion. I assumed the link to the DOT regulations from the official DOT site would include the most recent revision. I have included a link to the revised regulations as well as copied part 173.422 below.

I believe you are in compliance with 173.424, even the January 2004 revised version. My two questions involve the revised 173.422.

Mr. Lawvere was not able to clearly answer my question that the **outside** of each box is "marked with the four digit UN identification number for the material preceded by the letters UN, as shown in column (4) of the Hazardous Materials Table in 172.101." I believe in your case the marking should be UN 2910 for domestic shipments and UN2911 for international shipments. Is the proper UN number marked on the outside of each box?

The person preparing shipments under 173.422 must meet the training requirements of Subpart H of Part 172. Has Mr. Lawvere received training to meet the requirements of this section? If so, please provide details including but not limited to a completed course certificate. If he has not, please make arrangements for the training and provide me the details.

http://www.access.gpo.gov/nara/cfr/waisidx_04/49cfr173_04.html

§ 173.422 Additional requirements for
excepted packages containing Class
7 (radioactive) materials.

An excepted package of Class 7 (radioactive)
material that is prepared for
shipment under the provisions of
§ 173.421, § 173.424, § 173.426, or § 173.428 is
not subject to any additional requirements
of this subchapter, except for
the following:

**(a) The outside of each package must
be marked with the four digit UN identification
number for the material preceded
by the letters UN, as shown in
column (4) of the Hazardous Materials
Table in § 172.101 of this subchapter;**

**(b) Sections 171.15 and 171.16 of this
subchapter, pertaining to the reporting
of incidents;**

**(c) Sections 174.750, 175.700(b), and
176.710 of this subchapter (depending on
the mode of transportation), pertaining
to the reporting of decontamination;**

**(d) The training requirements of subpart
H of part 172 of this subchapter;**
and

(e) For materials that meet the definition of a hazardous substance or a hazardous waste, the shipping paper requirements of subpart C of part 172 of this subchapter.
[69 FR 3675, Jan. 26, 2004]

Thank you,

John Nicholson
U.S. NRC
phone: 610-337-5236
email: jjn@nrc.gov

>>> "MARATHON I David" <david@marathonwatch.com> 07/21/2006 3:40 PM >>>
Dear Mr. Nicholson,

Thank you for taking the time to email us on July 13, 2006 regarding the transportation of the watches by Scott Lawvere to the military packaging house, Jan Packaging in Dover, NJ. Also, thank you for giving us the DOT regulation websites. The following statement might answer your question:

We believe that Marathon Watch Company Ltd. complies with the applicable regulations of the US Department of Transportation and the US Nuclear Regulatory Commission for the transportation and distribution of articles containing exempt quantities of encapsulated Tritium in general, and 49 CFR 173.424 in particular, as each article and each package falls well below the applicable limits for exception from packaging, shipping paper and certification, and marking and labeling requirements of the cited subchapter and subpart. Additionally, Marathon is not a HAZMAT shipper, and as the articles meet the exemptions of the applicable parts of 49 CFR 173.424, shipments made by the Radiation Safety Officer, with training and experience in handling radioactive materials, to a military packaging contractor, in accordance with US Department of Defense contracts, meets the US Department of Transportation requirements for distribution of exempt quantities of articles meeting the applicable regulations.

I have included the cites from the CFR here :

§ 173.424 Excepted packages for radioactive instruments and articles. A radioactive instrument or article and its packaging is excepted from the specification packaging, shipping paper and certification, marking and labeling requirements of this subchapter and requirements of this subpart, if:

- (a) Each package meets the general design requirements of § 173.410; Yes
- (b) The activity of the instrument or article does not exceed the relevant limit listed in table 7 in § 173.425; Yes

(c) The total activity per package does not exceed the relevant limit listed in table 7 in § 173.425; Yes

(d) The radiation level at 10 cm (4 in) from any point on the external surface of any unpackaged instrument or article does not exceed 0.1 mSv/hour (10 mrem/hour); None DNA

(e) The radiation level at any point on the external surface of a package bearing the article or instrument does not exceed 0.005 mSv/hour (0.5 mrem/hour), or, for exclusive use domestic shipments, 0.02 mSv (2 mrem/hour); None DNA

(f) The nonfixed (removable) radioactive surface contamination on the external surface of the package does not exceed the limits specified in § 173.443(a); Yes

(g) Except as provided in § 173.426, the package does not contain more than 15 grams of uranium-235; None DNA, and,

(h) The package is otherwise prepared for shipment as specified in § 173.422. Yes

§ 173.422 Additional requirements for excepted packages containing Class 7 (radioactive) materials. (a) Except for materials subject to the shipping paper requirements of subpart C of part 172 of this subchapter, excepted packages prepared for shipment under the provisions of § 173.421 no, material, § 173.424, yes, article, § 173.426 no, Uranium or § 173.428 no, empty packaging must be certified as being acceptable for transportation by having a notice enclosed in or on the package, included with the packing list, or otherwise forwarded with the package. This notice must include the name of the consignor or consignee and one of the following statements, as appropriate:

(1) "This package conforms to the conditions and limitations specified in 49 CFR 173.421 for radioactive material, excepted package-limited quantity of material, UN2910";

(2) "This package conforms to the conditions and limitations specified in 49 CFR 173.424 for radioactive material, excepted package-instruments or articles, UN 2911"

The reason we occasionally ask Mr. Lawvere to transport the watches to Jan Packaging is that we feel it is safer for a larger shipment which is of high value to be taken there directly rather than using a common carrier such as UPS. Please feel free to call us at 1-800-822-4329 to further discuss the transportation and give us your comments.

We can assure you that Scott Lawvere is attending to all your queries and will respond to you as soon as possible.

Yours truly,

MARATHON WATCH COMPANY LTD.

Sylvia Wein

MARATHON WATCH COMPANY LTD.

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Mail Envelope Properties (44C4DD95.42F : 16 : 55708)

Subject: Fwd: Re: DOT Requirements
Creation Date Mon, Jul 24, 2006 10:47 AM
From: John Nicholson

Created By: JJN@nrc.gov

Recipients

nrc.gov
kp1_po.KP_DO
LAT (LAT)

Post Office

kp1_po.KP_DO

Route

nrc.gov

Files

MESSAGE
Mail

Size

2014

Date & Time

Monday, July 24, 2006 10:47 AM

Options

Expiration Date: None
Priority: Standard
ReplyRequested: No
Return Notification: None

Concealed Subject: No
Security: Standard

Junk Mail Handling Evaluation Results

Message is not eligible for Junk Mail handling
Message is from an internal sender

Junk Mail settings when this message was delivered

Junk Mail handling disabled by User
Junk List is not enabled
Junk Mail using personal address books is not enabled
Block List is not enabled