



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAR 28 2008

Mr. Thomas Wright
Idaho State Police
5205 South 5th Street
Pocatello, ID 83201

Ref. No.: 08-0013

Dear Mr. Wright:

This is in response to your January 3, 2008 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to radioactive materials. Your scenario involves “exclusive use” shipments of radioactive materials. Your questions are paraphrased and answered below.

Q1: Would a non-exclusive use shipment of radioactive material become an “exclusive use” shipment if the words, “no other material to be on this load” are added to the shipping paper?

A1: No. The words, “no other material to be on this load” placed on a shipping paper are not enough to declare a radioactive material shipment as “exclusive use.” As defined in § 173.403, “*Exclusive use* means sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must provide to the initial carrier specific written instructions for maintenance of exclusive use shipment controls, including the vehicle survey requirement of § 173.443 (c) as applicable, and include these instructions with the shipping paper information provided to the carrier by the consignor.”

Q2: Would the use of the words “exclusive use” on a shipping paper constitute a certification that the shipment is in compliance with all of the applicable exclusive use provisions in the HMR?

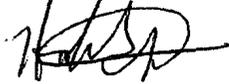
A2: Yes. By using the words “exclusive use” on a shipping paper, you are certifying that the shipment is in compliance with all of the applicable requirements of “exclusive use” as defined in § 173.403. Further, as specified in § 172.203(d)(9), use of the words “exclusive use” on a shipping paper are an indication that the shipment is consigned as “exclusive use.”

Q3: If the answer to Q2. is yes, must a shipment that remains within the radioactive levels of § 173.441(a) meet all of the “exclusive use” provisions in the HMR, such as those specified under § 173.441(c)?

A3: No. In accordance with the requirements of § 173.441(b), a package that exceeds the radiation level limits specified in § 173.441(a) must be transported as an exclusive use shipment. Therefore, a Class 7 (radioactive) material shipment that remains within the radioactive levels of § 173.441(a) is not required to be transported as “exclusive use”.

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, appearing to read 'H. Mitchell', written over a horizontal line.

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Drakeford, Carolyn <PHMSA>

Satterthwaite.
§ 173.427
§ 173.443

From: INFOCNTR <PHMSA>
Sent: Thursday, January 03, 2008 11:11 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Information Center Comments/Questions

RAM
08-0013

Request for written Interpretation. 1/2

-----Original Message-----

From: thomas.wright@isp.idaho.gov [mailto:thomas.wright@isp.idaho.gov]
Sent: Wednesday, January 02, 2008 3:55 PM
To: INFOCNTR <PHMSA>
Subject: Information Center Comments/Questions

Below is the result of your feedback form. It was submitted by Thomas R. Wright (thomas.wright@isp.idaho.gov) on Wednesday, January 2, 2008 at 15:54:30.

Email: thomas.wright@isp.idaho.gov

Name: Thomas R. Wright

Category: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 - 173.476)

Organization: Idaho State Police

Street: 5205 So. 5th St.

City: Pocatello

State: Idaho

Zip Code: 83201

Phone: 208-236-6466

Fax: 208-236-6068

Comments: Thanks for your time I would like to have an answer back in writing- E-Mail would be fine. I have called and left a message at 202-366-4545 but have not had a call back.

My question(s) is as follows:What makes an "Exclusive Use Shipment" an exclusive use shipment?

Under the H.M. radioactive material regulations exclusive use shipments are referred to in several places in the regulations.

Sometimes called as "sole use" shipments, exclusive use shipments are required by parts, of the regulations such as in 173.427 with reference to LSA/SCO shipments, 173.457 certain Fissile shipments, and 173.441(b) which deals with radiation levels above those transported in 173.441(a). 49CFR 173.441 (a) limits the radiation level at 2 mSv/hr. on external surfaces of packages and limits the transport index to 10.

49CFR 172.203 (d)(9) has a requirement for shipments that are "required" by this subchapter to be consigned as exclusive use to have an indication that the shipment is consigned as exclusive use or the statement "Exclusive Use Shipment" on shipping papers.

1) If a shipment of radioactive materials is made that is not required to be sent out as an exclusive use shipment, but the shipper has an indication on the shipping papers that the shipment is an exclusive use shipment, such as the words "no other material to be on

this load" would the shipment then become an exclusive use shipment? Would the shipper then have to provide "exclusive use" instructions as required under 173.441(c) and follow all exclusive use shipment regulations?

2) If the shipment of radioactive materials is made within the radiation limits of 173.441(a) and is not required to be sent out as an exclusive use shipment and the shipper puts the words "Exclusive Use Shipment" on the shipping paper, does the load then have to comply with all the exclusive use regulations such as that required under 173.441(c)?

Thanks.