

INTERPRETATION LETTERS

Requester	David Boudreaux	Date Received:	6/6/2019
Company	MISTRAS Group, Inc.	Tracking	19-0073
Phone	985.262.4630	Revision Date:	6/6/2019

Date Assigned	6/6/2019	Date of Letter	6/6/2019
----------------------	----------	-----------------------	----------

Staff	Edmonson	First Draft Due:	6/27/2019
--------------	----------	-------------------------	-----------

Section		First Draft Date:	
----------------	--	--------------------------	--

Subject	
----------------	--

Concurrence	
--------------------	--

Status	PHH-10-Specialist	Status Date	6/6/2019
---------------	-------------------	--------------------	----------

Sign Date		Signor	
------------------	--	---------------	--

Comment	HBP <input type="checkbox"/>	Copy to Docket <input type="checkbox"/>	Copy to DHM-60 <input type="checkbox"/>
----------------	------------------------------	---	---

Edmonson

19-0073

Dodd, Alice (PHMSA)

From: Edmonson, Eileen (PHMSA)
Sent: Thursday, June 06, 2019 2:55 PM
To: Dodd, Alice (PHMSA)
Subject: FW: Interpretation Response #17-0114

Hello Alice,

Please process this letter for response and assign it to me.

Thank you,

Eileen Edmonson
Transportation Regulations Specialist
U.S. Department of Transportation/PHMSA
(w) 202-366-4481
(f) 202-366-7041
(email) eileen.edmonson@dot.gov
(Hazmat Info Center) 800-467-4922
(website) <https://www.phmsa.dot.gov/>

From: David Boudreaux <David.Boudreaux@mistrasgroup.com>
Sent: Thursday, June 6, 2019 2:51 PM
To: Edmonson, Eileen (PHMSA) <eileen.edmonson@dot.gov>
Subject: Interpretation Response #17-0114

Ms. Edmonson,

I am contacting you for an expanded interpretation to Response #17-0114, in particular, Q2 and A2.

In Q2 it states: You ask if §175.75(e)(3) allows for an x-ray technician and his or her assistant to accompany a piece of x-ray equipment shipped as "UN2916, Radioactive Material, Type B(U) package non-fissile-excepted" by cargo-only aircraft.

In response, A2 stated: The answer is no. The provisions of §175.75(3)(3) only apply to the transportation of hazardous materials carried on a single pilot cargo-only aircraft in which no person is carried on the aircraft other than the pilot, an FAA inspector, the shipper or consignee of the material, a representative of the shipper or consignee so designated in writing, or a person necessary for the handling the material. Based on the scenario that you describe, PHMAS does not believe that the provisions of §175.75(e)(3) would apply to the X-ray technician and his or her assistant.

As the question is written I believe the interpretation was correct, but not all the pertinent information was given in the question.

The "X-Ray Technician and his or her assistant" are part of an Industrial Radiography Crew that utilized Radioactive Materials to conduct services for our offshore clients. These personnel hand-carry the Radioactive Materials in a Type B(U) package which is approved by the Nuclear Regulatory Commission (NRC). The

Industrial Radiography Crew presents the package and Shippers Declaration of Dangerous goods paperwork to the Heliport Dispatchers to be able to board a helicopter. Also, due to license conditions imposed either by the NRC or an Agreement State (Louisiana DEQ), the licensee shall comply with the regulations for the physical protection of radioactive materials. So the crew must have Unescorted access deemed by security clearance background checks to possess and transport Radioactive Materials over a certain activity. So due to this information, I believe that our personnel would meet the criteria of §175.75(e)(3) in two ways.

#1) Our company (MISTRAS) would be the shipper and as an employee of MISTRAS they are supplying the Shippers Declaration of Dangerous Goods, signed by one of the personnel on the Industrial Radiography Crew, so then by definition, they are a representative of the shipper or consignee so designated in writing as per §175.75(e)(3).

#2) Due to the license conditions imposed either by the NRC or an Agreement State (Louisiana DEQ) for physical protection of radioactive materials the Industrial Radiography Crew would also meet the definition of a person necessary for handling the material.

I hope this information is helpful in getting an expanded interpretation for §175.75(e)(3) in Interpretation Response #17-0114.

Regards,

David

David Boudreaux
QA/QC Manager / Radiation Safety Officer
P: 985.262.4630
M: 985.414.4628
F: 985.262.4793
David.Boudreaux@mistrasgroup.com



MISTRAS Group, Inc.
108 Lois Rd - Houma - LA 70363
www.mistrasgroup.com



This electronic mail is intended only for the use of the addressee(s) named herein and may contain legally privileged and confidential information. If you are not the intended recipient of this electronic mail, you are hereby notified that any dissemination, distribution or copying of this electronic mail is

strictly prohibited. If you have received this electronic mail in error, please immediately notify us by return electronic mail or telephone and delete this electronic mail from your system.



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

AUG 27 2019

Mr. David Boudreaux
QA/QC Manager and
Radiation Safety Officer
MISTRAS Group, Inc.
108 Lois Road
Houma, LA 70363

Reference No. 19-0073

Dear Mr. Boudreaux:

This letter is in response to your June 6, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to transporting radioactive materials aboard cargo aircraft only. Specifically, you ask for additional clarification of question "Q2" and answer "A2" in Letter of Interpretation Reference No. 17-0114 issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) on February 27, 2018. We have paraphrased your background discussion and answered your questions in the order you provided.

You state question "Q2" in Ref. No. 17-0114 concerns whether § 175.75(e)(3) permits an x-ray technician and his or her assistant to accompany a piece of x-ray equipment shipped as "UN2916, Radioactive material, Type B (U) package *non-fissile or fissile-excepted*" by cargo aircraft only. PHMSA answered no in answer "A2," with which you agree. However, you state the x-ray technician and his and/or her assistant are part of a larger Industrial Radiography Crew that utilizes this equipment to conduct services for offshore clients.

You also state the Nuclear Regulatory Commission (NRC) requires that Industrial Radiographers obtain appropriate security clearances to have unescorted access to hand-carry equipment that contains Class 7 (radioactive) material over a certain activity level in Type B(U) packages approved by the NRC. Further, you state that due to licensing requirements imposed by the NRC or an Agreement State (e.g., the State of Louisiana's Department of Environmental Quality (DEQ)), the Industrial Radiographers must comply with requirements to physically protect the Class 7 materials and present the packages that contain this equipment and applicable shipper's declaration of dangerous goods to the heliport dispatchers to obtain permission to board a helicopter.

You ask whether the following two scenarios comply with § 175.75(e)(3):

S1: Our company, MISTRAS, is the shipper. The Industrial Radiography Crew are employees of MISTRAS. MISTRAS employees supply the shipper's declaration of

dangerous goods. The shipper's declaration is signed by one of the members of the Industrial Radiography Crew. The members of the crew are listed on the shipper's declaration in a location other than the certifying signature as persons "necessary for handling the material." Is the crew member who signs the shipper's declaration considered a representative of the shipper "so designated in writing" as prescribed in § 175.75(e)(3)(i)? Do the other crew members listed on the shipper's declaration also meet the criteria for representatives of the shipper so designated in writing as prescribed in § 175.75(e)(3)(i)?

- A1: The crew member who signs the shipper's declaration is considered a representative of the shipper "so designated in writing." However, the crew members listed on the shipper's declaration as necessary for handling the material who do not sign the shipper's certification on the shipper's declaration do not perform a function of the shipper and, therefore, are not considered representatives of the shipper so designated in writing.
- S2: Due to the licensing conditions imposed by either the NRC or an Agreement State (e.g., Louisiana DEQ) for physical protection of radioactive materials, does the Industrial Radiography Crew listed on the shipper's declaration also meet the definition of a "person necessary for handling the material" prescribed in § 175.75(e)(3)(i)?
- A2: The answer is yes, the crew members listed on the shipping paper are considered "persons necessary for handling the material" and may be transported onboard the aircraft with the x-ray equipment provided the conditions in § 175.75(e)(3) are met. For clarification, the conditions for packages of hazardous materials carried on small, single pilot, cargo aircraft are: (i) no person is carried on the aircraft other than the pilot, an FAA inspector, the shipper or consignee of the material, a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material; (ii) the pilot is provided with written instructions on the characteristics and proper handling of the materials; and (iii) whenever a change of pilots occurs while the material is on board, the new pilot is briefed under a hand-to-hand signature service provided by the operator of the aircraft. The HMR defines "cargo aircraft only" as an aircraft that is used to transport cargo and is not engaged in carrying passengers. This definition further states under the HMR the terms "cargo aircraft only," "cargo-only aircraft," and "cargo aircraft" have the same meaning. See § 171.8.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division