



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

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

MAR - 3 2001

Ref. No. 00-0329

Mr. Wade A. Winters  
President  
Regulatory Resources, Inc.  
240 Joshua Road  
Kennewick, WA 99338

Dear Mr. Winters:

This is in response to your letter dated November 1, 2000, regarding the definition of the term "exclusive use" as it appears in 49 CFR 173.403.

In the situation presented in your letter, a single vehicle picks up radioactive materials at various points from various government subcontractors acting on the government's behalf. Each shipment loaded at the various locations has its own shipping paper prepared by the subcontractor on behalf of the specific agency of the U.S. government. Though all materials within the entire vehicle are consigned to the same destination, you ask if the material can be consigned to more than one final destination as long as exclusive use controls maintenance instructions are met. Packages of radioactive materials shipped under the provisions of § 173.427(b)(3) are required to be shipped "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 issue specific instructions in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier.

If a U.S. government agency arranges for the pickup of radioactive material packages from one or more facilities for transport as a single shipment by a common or contract motor carrier, it is the opinion of this office that the government agency in effect becomes the "single consignor," having exclusive use of the transport vehicle. However, it is important that the government agency establish itself on the shipping paper documentation as the "single consignor," and appropriate instructions be provided to the carrier for maintenance of exclusive use shipment



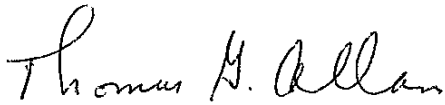
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173.403

controls. In addition, any loading or unloading that is performed by the subcontractors must be carried out in accordance with direction of the U.S. government agency. A shipment of radioactive material under the exclusive use of a single consignor may be consigned to more than one final destination.

I hope this satisfies your request.

Sincerely,



Thomas G. Allan  
Senior Transportation Regulations Specialist  
Office of Hazardous Materials Standards

November 1, 2000

Mr. Edward Mazzullo,  
Director  
Office of Hazardous Materials Standards (DHM-10)  
Research and Special Programs Administration  
U.S. Department of Transportation  
400 Seventh Street, SW  
Washington, DC 20590-0001

Gale  
§ 173.403  
Applicability  
00-0329

Dear Mr. Mazzullo,

Thank you in advanced for your timely response to the request for clarification presented below.

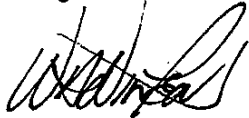
For the purposes of the transport of Class 7 radioactive material, the term "exclusive use" is defined in §173.403. The definition states that exclusive use "...means sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee..." In some transport situations, the U.S. government will subcontract work to non-government private or commercial enterprises. These subcontractors prepare the regulated material for transport and offer it to commercial carriers. Although prepared and transported by non-government personnel, the radioactive material is owned by the U.S. government.

A single vehicle picks up Class 7 radioactive materials at various points from various government subcontractors acting on the government's behalf. Each shipment loaded at the various locations has its own shipping paper prepared by the subcontractor on behalf of the specific agency of the U.S. government. All materials within the entire vehicle are consigned to the same destination.

1. Does the term "exclusive use" allow shipments by several different subcontractors, acting for a single U.S. government agency, to offer Class 7 material for transport at different locations, using separate sets of shipping papers?
2. Is the owner of the material (e.g., the U.S. government) considered the single consignor for the purpose of the term "exclusive use"?
3. If exclusive use is applicable in the above situation, can the material be consigned to more than one final destination as long as exclusive use maintenance instructions are met?

Thank you again for your attention to these questions.

For Regulatory Resources, Inc.,



Wade A. Winters, CET, CHMM  
President