



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

JUL 22 2004

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

Mr. C.S. Fossee
MHF Logistical Solutions, Inc.
800 Cranberry Woods Drive, Suite 450
Cranberry Township, PA 16066-5218

Ref. No. 04-0072

Dear Mr. Fossee:

This is in response to your March 25, 2004 letter concerning the definition of "exclusive use" as referred in § 173.403 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1: Section 173.403 requires loading and unloading to be carried out in accordance with the "direction" of the consignor or consignee. Does this direction require direct, physical oversight?

A1: Section 173.403 does not require the physical oversight of the shipment by the consignor or consignee.

Q2: Section 173.403 requires personnel at the loading and unloading sites to have radiological training. What level of training is required to achieve this requirement?

A2: Radiological training should be appropriate for the safe handling of the consignment and therefore included in function specific training required by subpart H of Part 172. Training relating to the requirements of 10 CFR 19.12 and the following topics may be provided to the extent such training addresses functions the employee performs. Radiological training for persons loading and unloading packages of radioactive materials should include discussions of the following topics:

1. Elementary radiological safety including basic terms, radiation exposure, dose rates and doses, radiation risks and minimization of exposures;
2. Transportation of radioactive materials including descriptions of packages normally handled and common radioactive packages;
3. Labels, radiation levels and placards;



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173.403

4. Required shipping paper information;
5. Controlling radiation exposures;
6. Good practices in handling radioactive material packages.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Gale', written over a horizontal line.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



800 Cranberry Woods Drive, Suite 450, Cranberry Township, PA 16066
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BAH
§173.403
Definitions
04-0072

March 25, 2004

Mr. Ed Mazzullo
Director of Hazardous Material Standards
US Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Via Fax 202-366-3012

SUBJECT: Regulation Clarification Request

Dear Mr. Mazzullo,

We are seeking a clarification letter with regard to certain provisions contained in the definition of "exclusive use." We routinely perform work that involves shipment of radioactive (LSA) material, in strong tight intermodal containers used as either freight containers or bulk packages (Containers). Shipments that include rail transportation may require transferring Containers from truck to railcar, and/or from railcar to truck.

We have received oral confirmation from Ms. Joan McIntyre at HazMat/DOT, which we understand was based on a review by Mr. Charles Betz, that the procedures we follow are in accordance with the applicable regulations. We are hereby requesting that confirmation in writing.

The following summarizes a part of our compliance approach for such shipments, which was confirmed by Ms. McIntyre:

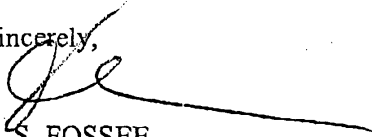
Exclusive use as defined in 49 CFR 173.403 requires loading and unloading to be carried out in accordance with the "direction" of the consignor or consignee. We have been advised that "direction" does not require direct, physical oversight by the consignor but rather "direction" is satisfied by the consignor issuing written instructions to the carrier as part of the shipping documentation.

Exclusive use as defined in 49 CFR 173.403 requires personnel at the loading and unloading sites to have radiological "training". We have been advised that the "training" requirement is for basic training, including safety training, such as railroad workers would be expected to possess.

Mr. Ed Mazzullo
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This facsimile requests your written confirmation that our interpretation and compliance approach is correct. Please feel free to contact me at (724) 772-9800 if you require any additional information to support this conclusion.

Sincerely,



C. S. FOSSEE
Vice President & General Counsel