



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

FEB 17 2016

Clay G. Sweet
Radioactive Material Shipping Coordinator
Prairie Island Nuclear Generating Plant
1717 Wakonade Drive East
Welch, MN 55089

Ref. No. 15-0195

Dear Mr. Sweet:

This responds to your letter of September 28, 2015 requesting clarification of "exclusive use" shipments under the Hazardous Materials Regulations (HMR; Subchapter C; 49 CFR Parts 171-180). Specifically, you inquire about the authorized packaging of Low Specific Activity (LSA) material and Surface Contaminated Objects (SCO) in light of a change to the definition of "exclusive use" (as defined in § 173.403) in the final rule, "Hazardous Materials: Harmonization with International Standards (RRR)" (HM-215M; 80 FR 1076). Moreover, in your request, you have referenced a Letter of Interpretation (Ref. No. 15-0036) issued by this Office. Your questions are paraphrased and answered as follows.

- Q1. May a general design packaging meeting the requirements of § 173.410 be used to ship LSA material and SCO under "exclusive use" in accordance with § 173.427(b)(4), even if the limits prescribed in § 173.441(a) are not exceeded?
- A1. Yes. Section 173.427(b)(4) authorizes LSA material and SCO to be packaged in a packaging meeting the requirements of § 173.410 (general design requirements) provided that the shipment is consigned as "exclusive use," the transportation is domestic, and the shipment is less than an A₂ quantity. In other words, in order to use the general design packaging authorized in § 173.427(b)(4) to transport LSA material and SCO, the HMR (i.e., "this subchapter"), specifically § 173.427(b)(4), require that the shipment be consigned as "exclusive use."

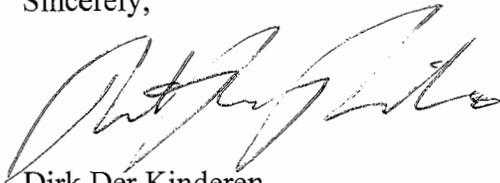
Please note that there are multiple circumstances whereby the HMR require that a shipment be consigned as "exclusive use," not solely the circumstance of a package exceeding the limits prescribed in § 173.441(a) or (d). Letter of Interpretation, Ref. No. 15-0036, cited § 173.441(a) and (d) as an example of when the HMR require "exclusive use" consignment.

- Q2. May the package of LSA material or SCO still qualify for the marking and labeling exception found in § 173.427(a)(6)(vi), even if the limits prescribed in § 173.441(a) are not exceeded?

- A2. Yes. Provided the shipment is offered under "exclusive use," the marking and labeling exception found in § 173.427(a)(6)(vi) may be used. While it is the shipper's option to exercise this provision, when it is selected, the HMR, specifically § 173.427(a)(6), require that the shipment be consigned as "exclusive use."
- Q3. If the limits prescribed in § 173.441(a) are not exceeded, must LSA material and SCO be packaged in accordance with §§ 173.427(b)(1), (2), (3), or (5) (instead of using a general design packaging meeting the requirements of § 173.410 in accordance with § 173.427(b)(4))?
- A3. No. See A1.

I hope this answers your inquiry. If you need additional assistance, please contact this Office again.

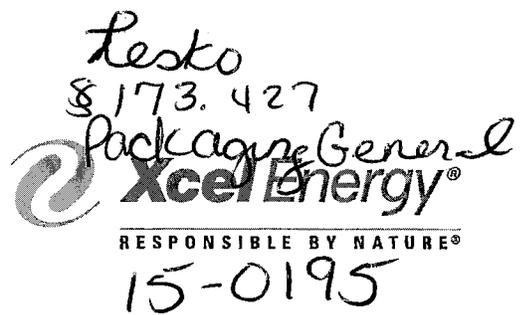
Sincerely,



Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

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Welch, MN 55089

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September 28, 2015

Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, DC 20590

Subject: Clarification on Effect of HM-215M on the Packaging Provision of 49 CFR 173.427(b) (4).

Dear PHMSA Representative(s),

In January, 2015, DOT issued HM-215M with a required compliance date of January 1, 2016. Among the changes in the final rule was a change in the definition of Exclusive Use to include the wording "where required by this subchapter." PHMSA interpretation 15-0036 states "The definition was revised to clarify that "exclusive use" only applies when compliance is required by the regulations, such as when the limits of 173.441(a) or (d) are exceeded."

49 CFR 173.427(b) (4) states:

"For domestic transportation of an exclusive use shipment that is less than an A2 quantity, in a packaging which meets the requirements of 173.410".

Since the definition of "exclusive use" in 173.403 is now taken to mean that exclusive use only applies when compliance is required by the regulations, such as when the limits of 173.441(a) or (d) are exceeded, does that mean that a packaging which only meets the requirements of 173.410, General design requirements, cannot be used for an exclusive use shipment unless required by regulation? In other words, can a general design packaging be used to ship under exclusive use provisions if the limits of 173.441(a) are not exceeded? (1)

If the package is not required to be shipped as exclusive use, would the package need to be fully marked and labeled if the provisions of 173.427 (6) (vi) are not allowed (i.e. stenciling or marking "RADIOACTIVE-LSA" OR "RADIOACTIVE-SCO" in lieu of other marking and labeling requirements of the subchapter)?

Would the packaging need to meet the requirements of 173.427(b) (1),(2), or (3) if a "general design" package cannot then be used per 173.427(b)(4)?

Thank you for your time and consideration of these questions. I look forward to your response.

Sincerely,

Clay G. Sweet
Radioactive Material Shipping Coordinator
Prairie Island Nuclear Generating Plant
1717 Wakonade Drive East
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(651)267-6276

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Tuesday, September 29, 2015 4:00 PM
To: Hazmat Interps
Subject: FW: Request for Written Letter of Interpretation
Attachments: DOT Interpretation Request.pdf

Dear Shante and Alice,

Please see the attached letter of interpretation. Mr. Sweet spoke with Edom Seifu in the HMIC.

Thanks,
Shelby

From: Sweet, Clay G. [<mailto:Clay.Sweet@xenuclear.com>]
Sent: Monday, September 28, 2015 12:33 PM
To: INFOCNTR (PHMSA)
Subject: Request for Written Letter of Interpretation

Please see attached letter in regard to a request for a letter of interpretation.

Thanks,

Clay Sweet
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