



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

JUL 24 2003

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

Mr. Neil Bozak
Canadian Natural Resources Limited
2500, 855 2nd Street, S.W.
Calgary, Alberta T2P 4J8
Canada

Ref. No. 02-0136

Dear Mr. Bozak:

This is in response to your letter requesting clarification of the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180) regarding the person responsible for the performance of "offeror" functions. I apologize for the delay in responding and hope it has not caused you any inconvenience.

I have enclosed a copy of a formal interpretation rendered by the Chief Counsel, Research and Special Programs Administration that is applicable to your inquiry. Please see Fact Pattern # 3 on page 6762 of the enclosed Federal Register. I hope this information is helpful.

Sincerely,

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

Enclosure



020136

107.601



CANADIAN
NATURAL
RESOURCES
LIMITED

2500, 855 2ND Street S.W., Calgary, Alberta T2P 4J8

Telephone (403) 517 6710 Fax (403) 517 7431

April 17, 2002

Director of Office of Hazardous Material Standards
U.S. DOT / RSPA DHM - 10
400 7th St S.W.
Washington DC
20590 - 0001

Attn: Mr. Edward Mazzullo

Dear Mr. Mazzullo:

My name is Neil Bozak and I am the Manager of Health and Safety for Canadian Natural Resources Ltd, an Oil and Gas producing company with head office in Calgary Alberta, Canada. I am writing this letter to you to request an official interpretation to part 107 of the regulations. The reason for this request is to ensure that part 107 of the regulations is complied with for the following situation. My request is for you to provide me with your interpretation of who would be the consignor (offerer or shipper) of the dangerous goods outlined in the following situation.

Canadian Natural Resources Ltd (CNRL) produces Natural Gas and Natural Gas Liquids at a remote field location (Sieu Lake Plant) in Southeast Alberta, Canada. This facility is designed to separate Natural Gas Liquids from the Natural Gas and store the liquids on location in a large storage bullet. The facility is only manned 8 hours per day and truckers have their own entrance for loading and unloading. CNRL sells their product F.O.B. their field location (Sieu Lake Plant) to another company who retain title to the product at our facility at the point of transfer. The Buyer of the product makes all arrangements with a trucking company to arrive at our field location, load their product and transport the product to a location in Montana. All truckers loads are done exclusively by the trucker and the operators of the facility do not control the activities of the trucker. The trucker has complete control over the loading process at this facility.

CNRL has a contract with Company X which clearly states that: "**Title to the Products shall Transfer to the Buyer at the point of Title Transfer indicated on contract (CNRL location)**". The contract also has a section relating to the transportation of product that clearly states: "**Where Buyer provides equipment for the transportation of product, the equipment shall be in a safe suitable condition for loading, and such equipment and the shipment of product shall be in compliance with all applicable laws, regulations, rules and order of any legislative body or duly constituted authority**".

MC Intyre

§ 107.601

§ 173.22

Shipper's Responsibility
Registration
02-0136



I have made a similar request from Alberta Transportation and following are quotes from the Alberta Transportation and Utilities Dangerous Goods regulations (See attached):

Section 7.16 (1) of the Alberta Transportation and Utilities Dangerous Goods states that “no person shall offer for transport any dangerous goods set out in Schedule XII from a point in Canada to a destination in or outside Canada unless the person has filed, or caused to be filed, with the Director General a summary of a plan in respect of the dangerous goods”.

A further interpretation of the regulation states : “ Where dangerous goods are sold F.O.B. plant, whoever offers the dangerous goods for transport would file the emergency response plan. Ownership does not enter into the question of filing or any other matter under the Regulations. Where the customer arranges with a carrier for pickup of the dangerous goods bought F.O.B. plant, the customer will be considered as offering and therefore is responsible for the filing”.

CNRL's interpretation of who the consignor (shipper or offerer) is in this situation is that the Buyer of the product F.O.B. our plant location should be the consignor and therefore responsible for all documentation requirements and registration of product according to section 107.

Attached is a letter from Mr. Leonardo Alvarado from Alberta Transportation with his interpretation of who the consignor (shipper or offerer) would be in the situation I have outlined above. His interpretation clearly indicates that the truck driver is the consignor in this type of situation.

Could you please provide me with your interpretation of who the Consignor (Shipper or Offerer) of the product being shipped is, who is responsible for providing proper shipping documentation, and who would be responsible to ensure that the product is registered as per section 107 of the regulations.

1. CNRL the manufacturer of the product
2. Company X the Buyer (owner) of the product who has made arrangements for transport of the product or
3. The trucker who has loaded the product for transport.

Your help on this matter would be greatly appreciated. If you have any questions regarding this letter, you can contact me at 403 517 6710 or by email at neilbo@cnrl.com.

Thank you for your time

A handwritten signature in black ink, appearing to read 'Neil Bozak', is written above the typed name.

Neil Bozak
Manager Health & Safety
Canadian Natural Resources Ltd



(iii) the appropriate Authority for the region in which is situated the harbour or port at which the dangerous goods are to be loaded onto the ship or to which the dangerous goods are to be transported.

(3) The notification referred to in subsection (2) shall

(a) be given at least 24 hours before the ship's arrival at a port, harbour, wharf or other place or at least 24 hours before the loading of the dangerous goods onto the ship; and

(b) specify

(i) the expected time of arrival of the ship, and

(ii) whether the dangerous goods are intended to be unloaded from the ship or are to be loaded onto the ship.

7.13 REVOKED

7.14 REVOKED

Emergency Response Assistance Planning

Definitions

7.15 For the purposes of sections 7.16 to 7.19,

"emergency" means a present or imminent event that requires prompt co-ordination of action for the protection of public safety, property or the environment;

"plan" means a written statement outlining the emergency response assistance capability of an organization in the event of an emergency.

Consignor to file "ERP" plan



7.16

(1) Subject to section 7.18, no person shall offer for transport any dangerous goods set out in Schedule XII from a point in Canada to a destination in or outside Canada unless the person has filed, or caused to be filed, with the Director General a summary of a plan in respect of the dangerous goods.

Importing consignee to file "ERP" plan

(2) Every consignee of a consignment of dangerous goods set out in Schedule XII shipped from a point outside Canada to a destination in Canada shall file, or cause to be filed, with the Director General a summary of a plan in respect of the dangerous goods.

Transiting carrier to file "ERP" plan

(3) No road or rail carrier shall transport any dangerous goods set out in Schedule XII from a place outside Canada to a place outside Canada, through Canada for a distance greater than 70 km, unless the carrier has filed, or caused to be filed, with the Director General a summary of a plan in respect of dangerous goods.

70 km = 43.5 mi

INTERPRETATION (AT&U)

Where dangerous goods are sold F.O.B. plant, whoever offers the dangerous goods for transport would file the emergency response plan. Ownership does not enter into the question of filing or any other matter under the Regulations. Where the customer arranges with a carrier for pickup of the dangerous goods bought F.O.B. plant, the customer will be considered as offering and therefore is responsible for the filing.

Information required

7.17

Every person required to file a summary of his plan shall set out in that summary the following information as applicable:

- (a) the name and address of the agent, if any, filed pursuant to Part XII;
- (b) a brief description of his emergency response capability;
- (c) certification that an emergency response capability exists;
- (d) a brief description of the means by which the plan can be activated;

Leonardo Alvarado

Dangerous Goods and Rail Safety Branch
Alberta Transportation

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49999 - 98 Avenue
Edmonton, Alberta T6B 2X3

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E-mail: leonardo.alvarado@gov.ab.ca

April 11, 2002

Attn.: Mr. Neil Bozak
Manager Health & Safety
Canadian Natural Resources Ltd.
Calgary, Alberta

This letter is a reply to your letter received by me on April 11, 2002. You requested an interpretation of the definition of "consignor" in the Transportation of Dangerous Goods (TDG) Regulations.

Part 1 of the TDG Regulations defines a consignor as

"a person who offers a consignment for transport".

Alberta Transportation has added this interpretation to the TDG Regulations:

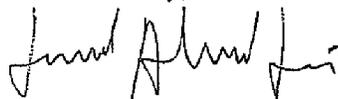
"In the case of a remote loading facility the consignor is deemed to be the person who has charge, management or control of the dangerous goods at the time the truck is loaded, and can be the truck driver if he is the only person at the facility"

In the case you described truck drivers are loading tanks with liquefied petroleum gasses at a remote loading station. They have full control of the quantity of dangerous goods loaded. According to our interpretation, the truck driver becomes the consignor in such a case. It is the trucker's responsibility to complete the Dangerous Goods Shipping Document.

Your company would be the consignor if one of your employees was supervising the actions of the trucker, or if one of your employees had control of the loading process. FOB is not the consignor either, since they have no direct control of the loading process. The final responsibility for documentation falls on the driver of the truck being loaded since he or she has full control of the loading process.

I hope this letter answers your questions. Please feel free to call us if you require any help or further clarification of the interpretation of the TDG Regulations. Our office is open 24 hours a day.

Yours truly,



Leonardo Alvarado