



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

OCT 08 2019

William Herman  
North American Transportation Consultants  
P.O. Box 1440  
Hightstown, NJ 08520

Reference No. 19-0081

Dear Mr. Herman:

This letter is in response to your June 12, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to a shipper's certification on a shipping paper.

In the scenario you describe, a shipment was made in a cargo tank supplied by the carrier and, in accordance with § 172.204(b)(1)(i), a shipper's certification was not required. However, a certification statement was provided on the shipping paper and contained a misspelling; specifically, "accurately" was spelled "accuratly" in the certification statement.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether a shipper's certification that appears on a shipping paper when the certification is not required must otherwise conform to § 172.204.
- A1. The answer is no. If a shipper's certification is not required due to an exception provided by § 172.204(b), the requirements for the certification statement in § 172.204(a) do not apply.
- Q2. You ask, if the answer to question Q1 is yes, whether the misspelling of the word "accurately" constitutes a bona fide modification to the language prescribed in § 172.204(a)(2).
- A2. See A1.

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

Sincerely,

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

Patrick

19-0081

**Dodd, Alice (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Tuesday, June 18, 2019 3:27 PM  
**To:** Hazmat Interps  
**Subject:** FW: Request for Guidance/Interpretation  
**Attachments:** Request for Letter of Interpretation - 172.204.pdf

Hi Alice,

Attached is the PDF for LOI 19-0081.

Thanks,

Lynsie, HMIC

**From:** William Herman [mailto:wherman@natc-inc.com]  
**Sent:** Wednesday, June 12, 2019 4:32 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Request for Guidance/Interpretation

Sir/Madam,

I have attached a request for interpretation regarding shipper certification. I have searched previous guidance documents on your website and could find none specific to my concern.

Please find attached documents relative to this request.

Thank you for your attention in this concern.

*My apologies if this email is duplicative, as I received an error message with my previous to [infocntr@dot.gov](mailto:infocntr@dot.gov)*

Regards,

William Herman

NATC, Inc.  
PO Box 1440  
Hightstown, NJ  
O-609-426-0555  
C-732-330-6392

Mr. Shane Kelley  
Director, Standards and Rulemaking Division  
U.S. DOT/PHMSA (PHH-10)  
1200 New Jersey Avenue, SE East Building, 2nd Floor  
Washington, DC 20590

June 12, 2019

Dear Mr. Kelley,

I am requesting an interpretation regarding shipper certification. I have attached a copy of a roadside inspection conducted by the New York State Police and have also attached a copy of the shipping paper associated with this inspection.

The trooper cited the carrier for a violation of §177.817(b) – “Shipper’s certification contains a misspelling, ‘accurately’ is spelled ‘accuratly’ within the certification.”

Since this was a cargo tank supplied by the carrier, and as §172.204(b)(1)(i), as well as §177.817(b) confer, no shipper certification would be required.

This violation was challenged through the Data Q website on the basis that since no certification was required, this was essentially optional language and therefore not subject to the strict language limitation as set forth in §172.204(a)(2).

This request was denied by the agency as they assert that the misspelling is a “modification” to the language prescribed in the section. They point to interpretations issued by your agency wherein PHMSA has stated that no modification to the language in subparagraphs (1) or (2) is permitted or authorized. I have reviewed these interpretations and it appears they all pertain to “required” shipper certifications. They further asserted that since the shipping paper contained this certification statement, it must be in conformance with the regulation in all regards.

I am formally requesting PHMSA provide guidance on:

1. If a shipper certification appears on a shipping paper when one is not required, must it otherwise conform to the section in the same manner as is prescribed in, for example, the permissive placarding section?
2. If the answer to question 1 above is yes, does the misspelling of the word “accurately” constitute a bona fide modification to the language prescribed in §172.204(a)(2)?

Thank you,  
William Herman

North American Transportation Consultants  
PO Box 1440  
Hightstown, NJ 08520  
609 426-0555



NEW YORK STATE POLICE  
Commercial Vehicle Enforcement Unit  
Troop C

TE2411 (7/01)

**DRIVER/VEHICLE EXAMINATION REPORT**

Report Number: NYSPC0191377  
Inspection Date: 05/22/2019  
Start Time: 08:21 AM End Time: 09:01 AM  
Insp. Level: 2 - WALK-AROUND DRIVER / VEHICLE  
HAZMAT Insp: BULK

ALL CHEMICAL TRANSPORT CORP  
PO BOX 2083  
LAKEWOOD NJ 08701  
USDOT#: 00217745 Phone#:  
MC/IX#: 105997 Fax#:  
State#:

Driver: MONTANEZ EDUARDO  
License#: 178951680 State: CT  
Date of Birth: 05/23/1970  
CoDriver:  
License#:  
Date of Birth: State:

Location: BEDFORD (SB)  
Highway: 1-684  
County: WESTCHESTER

MilePost:  
Origin: BROOKFIELD CT Bill of Lading: SO367378  
Destination: ORANGEBURG NY Cargo: UN1170 ETHYL ALCOHOL SOL

**VEHICLE IDENTIFICATION**

Unit	Type	Make	Year	State	License #	Equipment ID	VIN #	GVWR	CVSA #	DOS#
001	TT	MACK	2016	NJ	AS301Y	6947	1N8S74323YA044122	52000		
002	ST	TRLR	2000	NJ	TBY81M		1N8S74323YA044122	68000		

**BRAKE ADJUSTMENTS** NO BRAKE MEASUREMENTS REQUIRED FOR LEVEL 2 INSPECTIONS

**VIOLATIONS**

Mo Code	Section	Unit	DOS	Citation #	Verify	Crash	Violations Discovered
177.817B	177.817(B)	1	N		N		SHIPPER CERTIFICATION - SHIPPER'S CERTIFICATION CONTAINS A MISPELLING. "ACCURATELY" IS SPELLED "ACCURATLY" WITHIN THE CERTIFICATION.

HazMat 3 FLAMMABLE .

Placard YES Cargo Tank 407

Special Checks:

- NOTE TO DRIVER: Return this report to the motor carrier whose name appears at the top.
- NOTE TO REPAIRER: If entries are made in the violation section above, please sign the report when repairs are completed.

Signature Of Repairer X \_\_\_\_\_ Facility: \_\_\_\_\_ Date \_\_\_\_\_

- Sign and return this report ONLY if violations are entered in the violation section

**RETURN ADDRESS:**

New York State Department of Transportation  
Truck Inspections  
50 Wolf Road POD 53  
Albany, New York 12232

- TRAFFIC TICKETS: If issued, MUST be returned to the COURT whose address appears on the front of the TICKET.
- MOTOR CARRIER CERTIFICATION: I hereby certify that all violations entered on this report have been corrected and action has been taken to assure compliance with the NYS Transportation Law and Regulations
- If the vehicle has NOT been repaired and HAS been permanently removed from service, Initial here \_\_\_\_\_ and sign the report

Signature of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By:

ROBERT A KIDDER

Badge #:

1855

Copy Received By:

EDUARDO MONTANEZ

X



NYSPC0191377



**STRAIGHT BILL OF LADING-ORIGINAL-NON NEGOTIABLE**

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading  
 DSP-CT-18  
 56 VALE ROAD  
 BROOKFIELD WAREHOUSE  
 Brookfield, CT 06804



Date Shipped: 05/15/19

Bill of Lading No.: **SO367169**

<b>Carrier:</b> ALL CHEM	<b>Freight Terms:</b> PREPAID No Surc	<b>Freight Code:</b> 16NS	<b>Load#:</b>	<b>Liftgate?</b> No	<b>Straight Truck?</b> No	<b>Customer PO#:</b> 51665
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<b>Sold To:</b> Ambrosia Fragrance, LLC C600010	<b>C of A?</b> Yes	<b>One Lot?</b> No	<b>Container No:</b> ALL CHEM 660R	<b>Seal No(s):</b> 266285, 266286, 266287, 266288, 266289, 266290, 266291
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**Special Instructions:**  
 Req. Del. Da Del. Tim  
 05/16/19 8AM  
 CoFA & BOL must accompany shipment

Page 1 of 1

<b>Ship To:</b> Ambrosia Fragrance, LLC **BULK ADDRESS** 7 Turner Place Piscataway, NJ 08854 C600010-01
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Pump and hose required.

SDS-NJ-15092

No. of Pieces & Container Type	Product Code	H M	Description & Classification	Weight (Sub) to Corr.)
6,805.6 GAL	12340B190BK01 NA	X	UN1170, Ethyl Alcohol Solution, 3, PGH, Flammable Liquid SDA 40B-190 PROOF BULK NMFC Item # 42690-01 EMERGENCY RESPONSE GUIDE #127	46237.2 lbs
	12340B190BK01		C19E1400100SD40BEF01	

**Total Pieces:** 6,805.6    **Wine Gallons:** 6,805.6    **Proof Gallons:** 0    **Excise Tax:** 0    **Total Weight:** 46,237.2 lbs

**Description of the Spirits, Denatured Spirits:** Spirits or Denatured Spirits described above are withdrawn from Processing Account by:  
**TIB Serial No.:** \_\_\_\_\_ **TTB F.5100.16 Serial No.:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

Under penalties of perjury, I declare that the spirits or denatured spirits and their containers are accurately described, in transferrable condition, and this date consigned to stated distilled spirits plants:  
**Seal No(s):** \_\_\_\_\_ **Date:** \_\_\_\_\_ **By:** \_\_\_\_\_ **Attorney in Fact**

**Certificate of Receipt:** Seals intact on arrival:  Yes  No **Notation Regarding Unusual Loss** \_\_\_\_\_ **Qty. Received:** \_\_\_\_\_  
 Under penalties of perjury, I declare that the spirits or denatured spirits described were received, except as noted on this form or accompanying documents.  
**By:** \_\_\_\_\_ **(Signature & Title) Date Received:** \_\_\_\_\_

**Note:** Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.  
 The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding: \$ **2.65** per **LB**

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations  
 Subject to section 7, all collect shipments and third party shipments not billed to Pharmco are tendered without recourse to the consignor.

**Shippers signature:** \_\_\_\_\_

**HAZARDOUS PLACARDS TENDERED**  YES  NO **IF NO IS CHECKED BELOW - ERGs HAVE BEEN PROVIDED**  YES

**Signature:** \_\_\_\_\_ **DRIVER HAS AN EMERGENCY RESPONSE GUIDEBOOK IN HIS VEHICLE**  YES  NO

**FOR CHEMICAL EMERGENCY, CALL CHEMTREC: CONTINENTAL U.S. 800-424-9300 OR OUTSIDE CONTINENTAL U.S. 703-527-3887 CCN 17213**  
 C200 Rev.1.0 Bulk B/L Revision No.: 0 Date Printed: 05/15/19

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