



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 15, 2021

Jason Ontjes
DOT/Fleet Manager
Jacam Chemicals 2013, LLC
205 S. Broadway
P.O. Box 96
Sterling, KS 67579

Reference No. 20-0070

Dear Mr. Ontjes:

This is in response to your August 28, 2020, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers. Specifically, you seek clarification on the requirements pertaining to shipping paper accessibility.

In your email, you describe a scenario in which one of your drivers was cited by an enforcement officer for noncompliance with § 177.817(e) of the HMR. You state that your driver was at the controls of the motor vehicle and the required shipping paper was in a manila folder inside of a holder mounted to the inside of the driver's side door. You also state that while the shipping paper was not tabbed, the shipping paper did appear first in the manila folder. Finally, you state that it is your understanding that the citation by the enforcement officer is incorrect and that the HMR allows for the shipping paper to appear first if carried with other papers and to be held in a holder mounted to the driver's side door. You have requested interpretation of the requirements of § 177.817(e) as it relates to your scenario.

It is the opinion of this Office that based on your scenario, your understanding is correct. Section 177.817(e)(1) states that the shipping paper must be clearly distinguished by either distinctively tabbing it or by having it appear first if it is carried with other shipping papers or other papers of any kind. By having the shipping paper appear first in the folder, it appears that your driver has met this requirement. Section 177.817(e)(2)(i) states that when the driver is at the vehicle's controls, the shipping paper shall be within his immediate reach while he is

restrained by the lap belt; and either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door of the driver's side of the vehicle. It appears that by having the manila folder in a holder which was mounted to the inside of the door of the driver's side of the vehicle, your driver has met this requirement, as well.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Larson

From: [INFOCNTR \(PHMSA\)](#)
To: [Hazmat Interps](#); [Dodd, Alice \(PHMSA\)](#)
Subject: FW: Request for Formal Written Letter of Interpretation
Date: Monday, August 31, 2020 1:01:28 PM
Attachments: [Ship Acces.pdf](#)

20-0070

Dear Alice,

Please see below for a letter of interpretation request.
Please contact our office with any questions.

Thank you,

Sarah (HMIC)

From: Jason Ontjes [mailto:jason.ontjes@jacam.com]
Sent: Friday, August 28, 2020 3:08 PM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Request for Formal Written Letter of Interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

8/28/2020

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
East Building, 1200 New Jersey Avenue, SE
Washington, DC 20590-001

RE: Letter of Interpretation

Dear Office of Hazardous Materials Standards:
Jacam Chemicals 2013, LLC (Jacam) requests a letter of interpretation regarding Shipping Papers 117.817.

One of our drivers was given a violation for 177.817(e). The enforcement officer cited "shipping paper not accessible (FMCSR 177.817(e) – in a folder not tabbed." Our driver was at the controls of the vehicle and the shipping paper was located in a manilla folder in a holder which was mounted to the door on the driver's side of the vehicle. The shipping paper appeared first in the folder. The agency wants to continue to reference the attached PHMSA interpretation in their argument for upholding the violation. The reason that I am reaching out to you is because I firmly believe that they are incorrect.

The regulations are very clear.

§177.817 Shipping papers.

(e) Shipping paper accessibility—accident or inspection. A driver of a motor vehicle containing hazardous material, and each carrier using such a vehicle, shall ensure that the shipping paper required by this section is readily available to, and recognizable by, authorities in the event of accident or inspection. Specifically, the driver and the carrier shall:

(1) Clearly distinguish the shipping paper, if it is carried with other shipping papers or other papers of any kind, by either distinctively tabbing it or by having it appear first; and

(2) Store the shipping paper as follows:

(i) When the driver is at the vehicle's controls, the shipping paper shall be: (A) Within his immediate reach while he is restrained by the lap belt; and (B) either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle.

(ii) When the driver is not at the vehicle's controls, the shipping paper shall be: (A) In a holder which is mounted to the inside of the door on the driver's side of the vehicle; or (B) on the driver's seat in the vehicle.

As I mentioned before, our driver had the shipping paper in a manilla folder, inside the driver's side door pocket, and it appeared first. In the regulations, the verbiage states that there are two options to comply. Within 177.817(e)(2)(i)(b) there are the words "either" and "or" which alludes to two separate options for storing shipping papers. The first being that it is "readily visible to a person entering the driver's compartment", with the second option being "in a holder which is mounted to the inside of the door on the driver's side of the vehicle." We were utilizing the second option by storing our shipping paper "in a holder inside of the door on the driver's side of the vehicle" which is after the "or" in the regulation. The argument that it has to be "readily visible" is countered with the "either" and "or" in the regulation giving us an additional way to be compliant. It also states in 177.817(e)(1) that it has to be clearly distinguishable, if it is carried with other shipping papers or other papers of any kind, **by... either** distinctively tabbing it **or** by having it appear first. Our shipping paper appeared first, again, adhering to the regulation because of the "or" option that it gives us. 177.817(e) tells us how to be compliant carrying shipping papers. In the last sentence it states "Specifically, the driver and carrier shall:" We complied with the regs and were issued a violation because of it and I believe it to be erroneous

Sincerely,

Jason Ontjes

DOT/Fleet Manager

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