



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

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

APR 19 2004

Mr. Richard J. Lloyd
Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195-1501

Ref. No.:04-0021

Dear Mr. Lloyd:

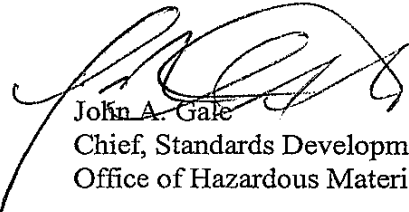
This responds to your letter of February 11, 2004, and your follow-up letter of March 30, 2004, regarding the shippers's certification prescribed in 49 CFR 172.204 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked whether, on your company's behalf, a third-party carrier could perform the shipper's certification function on the shipping paper for the pick-up and transportation of hazardous materials containers being returned to your company's plant.

You have customers whose primary business does not involve hazardous materials and, consequently, they will not issue or prepare shipping papers for the return shipment of empty containers with a residue of a hazardous material. Your company would supply the third-party carrier you use for pick-up with an unsigned shipping paper. Once the empty containers with residue are inspected by the driver and found to be in compliance, the carrier would sign the shipping paper certifying the material is offered for transportation in compliance with the HMR. You asked for confirmation that your understanding is correct that a third-party carrier may perform the shipper's certification function.

Your understanding is correct. At your company's direction or through contractual arrangement, a third-party carrier may perform the functions of the offeror (shipper), such as signing the certification statement on a shipping paper to certify that an empty container with the residue of a hazardous material is being offered for transportation in accordance with the HMR. Under the HMR, any person performing functions of an offeror must take responsibility for performing those functions in compliance with the applicable rules.

I hope this satisfy your inquiry. If we can be of further assistance, please contact us.

Sincerely,


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



040021

§ 172.204 (a)



Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195-1501
Tel 610 481-4911

Engram
§172.204 (a)
Shipping Papers
04-0021

11 February 2004

Mr. Edward Mazzullo
U. S. Department of Transportation
Research and Special Programs Administration
Office of Hazardous Materials Standards DHM - 10
400 Seventh Street, S. W.
Washington, D. C. 20590

Dear Mr. Mazzullo:

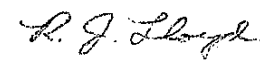
Re: Interpretation 49 CFR 172.204 (a) Shipper's Certification

Recently, we called the Hazardous Materials Information Center for an interpretation of the Shipper's Certification requirements specified in 49 CFR 172.204 (a). Specifically, we asked if our company could authorize a third-party carrier to perform the shipper's certification offer's function on our behalf for the pickup of hazardous materials containers being returned to our plant. The Information Center representative advised us that a third-party carrier could sign the shipper's certification provided the person was properly trained in the Hazardous Materials Regulations.

We have some customers whose primary business does not involve hazardous materials and, consequently, will not issue shipping papers for the return shipment of empty containers with residue material remaining in the container. Our nearest plant may be located a significant distance from the customer and it is not practical to send a person from our plant to the customer's facility to sign the shipper's certification for the return shipment of the residue containers. Instead, we propose to provide the third-party carrier that we use for the pickup with a properly prepared unsigned shipping paper. The carrier would sign the shipping paper certifying the material is offered for transportation in accordance with the Hazardous Materials Regulations once the return shipment is inspected by the driver and found to be in compliance.

Please confirm that our understanding of your interpretation of the Shipper's Certification requirements is correct allowing us to use a third-party carrier for the certification function.

Sincerely,


Richard J. Lloyd
Manager Regulatory Compliance