



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

OCT 26 2004

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

Ms. Karen L. Baxter  
Hazardous Materials Regulatory  
Compliance Engineer  
9709 E. Central  
Wichita, KS 67206

Ref. No. 04-0183

Dear Ms. Baxter:

This is in response to your letter dated August 12, 2004, regarding the shippers' certification prescribed in § 172.204 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you present the following scenario and asked whether Raytheon Aircraft Company (Raytheon) would be liable should there be penalties involved with non-compliance under the HMR.

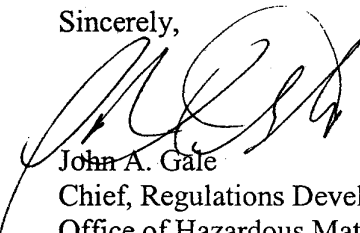
According to your letter, Raytheon contracts with Company X to inventory and ship hazardous materials. In some cases, Company X will use its personnel to prepare hazardous materials shipments. In such cases, Company X, on Raytheon's behalf, signs the shipper's certification on the shipping paper.

At your company's direction or through contractual arrangement, a third party may perform the functions of an offeror (shipper), such as signing the certification statement on a shipping paper to certify that hazardous materials are 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 accordance with the applicable rules. Each person who performs a function governed by the HMR is responsible for complying with the appropriate requirements of the HMR.

Note that, because Company X in this situation is acting as an agent of Raytheon, Raytheon may be held responsible for Company X's non-compliance with the HMR. The degree of regulatory liability is usually determined on a case-by-case basis, and is dependent on the facts of the specific situation.

I hope this information is helpful. Please contact us if you require additional assistance

Sincerely,

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



040183

172.204  
173.22

**Raytheon Aircraft**

**FROM:**

Karen L. Baxter  
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*Refer to  
3172.204  
3173.22  
Shipping Papers / Shipper's  
Responsibility  
04-0183  
172.702*

**FAX COVER SHEET**

**TO: Mr. Edward T. Mazzullo**  
**Director, Office of Hazardous Materials Standards**  
**U.S. DOT/RSPA (DHM-10)**  
**400 7<sup>th</sup> Street S. W.**  
**Washington, D.C. 20590-0001**  
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Request for formal interpretation:

Raytheon Aircraft Company is contracting other companies to inventory and ship all classes of hazardous materials. In some cases Raytheon Aircraft Company would own the inventory. If the company Raytheon Aircraft Company contracts to ship the hazardous materials uses the contracting company personnel to prepare the materials for shipment and sign the shipper's certification, will Raytheon Aircraft Company be in any way liable should there be penalties involved with non compliance to 49 CFR parts 171 through 180 ? The contracting company would be shipping on a Shipper's Declaration or Bill of Lading with the Raytheon Aircraft Company's logo and for export shipments Raytheon Aircraft Company would be the "exporter of record".

Thanking you in advance for your formal interpretation of this subject.

*Karen L. Baxter*