



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JUN 1 2006

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

Mr. Fred A. Nachman
President
Thunderbird Cylinder, Inc.
4209 E. University Drive
Phoenix, AZ 85034-7315

Ref. No. 05-0088

Dear Mr. Nachman:

This responds to your letter regarding offeror functions under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a carrier may perform certain offeror functions, such as generating shipping papers, on behalf of an owner/user of cylinders. Your employees pick up cylinders from customers for requalification testing and generate shipping papers for transportation to and from your retesting facility. You ask if this is a violation of the HMR.

There is nothing in the HMR that prohibits a carrier from performing offeror functions. However, the functions must be performed in accordance with the HMR. This would include functions such as the correct identification of hazardous materials packaged in cylinders and the proper description of the hazardous material on the shipping paper. See § 172.3(b). In addition, a person who offers a hazardous material for transportation is required to certify on a shipping paper that the hazardous material is being offered in accordance with the HMR as specified in § 172.204(a). I suggest that you contact the office of the Pipeline and Hazardous Material Safety Administration's Office of Hazardous Materials Special Permits and Approvals, at (202) 366-4535, concerning the transport of cylinders containing unknown contents.



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172.200
172.204(a)

The HMR also provide exceptions from shipping papers and placarding for non-bulk packagings such as cylinders, which contain only the residue of a hazardous material covered by Table 2 of § 172.504, when collected and transported by a private or contract carrier. See § 173.29(c).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in black ink and is positioned above the typed name and title.

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

Thunderbird Cylinder, Inc.

Stevens
§172.200
Shipping Papers
05-0088

April 13, 2005

Ms. Hattie Mitchell
Department of Transportation
400 7th Street SW Rm#8422 DHM-12
Washington, D. C., 20590

Dear Ms. Mitchell,

We request clarification of **49CFR Subpart C- Shipping Papers §172.200 Applicability.**
(a) Description of hazardous materials required. Except as otherwise provided in this subpart, each person who offers a hazardous material for transportation shall describe the hazardous material on the shipping paper in the manner required by this subpart.

When Thunderbird Cylinder, Inc., a requalifier, picks up a load of cylinders from a filler/owner for hydrotest, UE, etc., its driver has been filling out a Cylinder Hazardous Material Manifest which is used for the transportation of that load. A similar manifest is used for the return delivery as well. If it makes multiple pickups or deliveries, its driver will prepare a separate manifest for each pickup. While Thunderbird takes possession of the cylinders on the customer's property, it cannot be certain of what material is actually in the cylinder.

Thunderbird understands that a filler/owner's customer has been cited by DOT for not filling out the Manifest after relying on the filler/owner's driver to fill out the manifest.

Question: Is "...each person who offers" the user/owner of the cylinders from the site where the pickup is made or the filler/owner who makes the pickup in his vehicle and provides the transportation and necessary manifesting for his customer? In other words, can Thunderbird continue using its manifests as filled out by its drivers or must it require its customers to fill out their own individual manifests?

Respectfully,



Fred A. Nachman
President

(DOT Clarification Shipping Papers 41305.doc)

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