



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

APR 26 2010

Mr. Brad Bockey
2001 Millwood Pike
Winchester, Virginia 22602

Ref. No. 09-0285

Dear Mr. Bockey:

This responds to your email dated November 30, 2009, regarding general requirements for shippers under the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). Specifically, you ask about retention of shipping papers and certification requirements.

Your email includes the following scenarios:

- Scenario 1:** Original manufacturer (shipper) ships product utilizing an outside carrier to deliver product to receiver A, who is a reseller.
- Scenario 2:** Receiver A (from above) is a private carrier and ships orders out of storage to Receiver B, when requested, on its own vehicles, never utilizing an outside carrier. Receiver A creates a shipping paper for each shipment.
- Scenario 3:** Receiver B is a private carrier that ships explosives by highway out to job sites for its own use and creates a shipping paper for each shipment.

Generally, the HMR apply to persons who offer hazardous materials for transportation in commerce and persons who transport hazardous materials in commerce. The HMR do not define the term “shipper.” When the word “shipper” is used, such as in the title of Part 173 – “Shippers-General Requirements for Shipments and Packagings” – that word refers to a person who prepares a shipment for transportation. That person may also be a carrier, when it prepares the shipment for its own transportation (as a private carrier) or for transportation by a succeeding carrier.

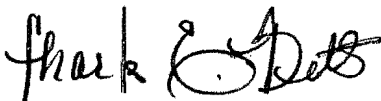
In Scenario 1, the original manufacturer is a “person who offers” or “offeror” for purposes of the HMR. In accordance with Subpart C of Part 172 of the HMR, the original manufacturer must prepare a shipping paper and sign the certification, and must retain a copy of the shipping paper or an electronic image of the shipping paper for at least two years after the shipment has been accepted by the initial carrier (see §§ 172.200 and 172.201). The carrier who receives the shipping paper from the original manufacturer must retain a copy of the shipping paper or an electronic image for one year after the carrier accepts the shipment (see § 177.817(f)).

In Scenario 2, Receiver A is both a “person who offers” or “offeror” and a carrier for purposes of the HMR. Receiver A must prepare a shipping paper for each shipment and must retain the shipping paper or an electronic image of the shipping paper for at least two years. Note that no certification is required for a shipment offered for transportation by a shipper as a private carrier, except for hazardous materials that is to be reshipped or transferred from one carrier to another (see § 172.204(b)(1)).

In Scenario 3, Receiver B is both a “person who offers” or “offeror” and a carrier for purposes of the HMR. Receiver B must prepare a shipping paper for each shipment and must retain the shipping paper or an electronic image of the shipping paper for at least two years. No certification is required for a shipment offered for transportation by a shipper as a private carrier, except for hazardous materials that is to be reshipped or transferred from one carrier to another (see § 172.204(b)(1)).

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is written in a cursive style with a large, stylized initial "C".

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Drakeford, Carolyn (PHMSA)

Engrum
\$173.22
\$172.204
\$171.1

From: INFOCNTR (PHMSA)
Sent: Monday, November 30, 2009 2:10 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 & 173.476)

Shippers' Responsibility
09-0285

-----Original Message-----

From: PHMSA-Feedback [mailto:PHMSA-Feedback]
Sent: Monday, November 30, 2009 11:19 AM
To: PHMSA HM InfoCenter; PHMSA Webmaster
Subject: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 & 173.476)

I am seeking a definitive answer as to when a carrier may be deemed a shipper as well. The easiest method will be by example.

#1 - Original manufacturer ships product utilizing an outside carrier to deliver products to receiver A who is a reseller. Original manufacturer is the shipper and outside carrier is considered a carrier.

#2 - Receiver A (from above) is a private carrier and ships orders out of storage when requested on its own vehicles, never utilizing an outside carrier to receiver B. It is not the same quantity so receiver A always generates a shipping paper for each shipment. Receiver A is not only a carrier but is also a shipper. Is this correct?

#3 - Receiver B is also a private carrier that ships HM out to jobsites upon highways as an end-user (MOTS does not apply as this is explosive materials). Since receiver B also makes their own shipping papers are they not only a carrier but also a shipper as well.

I am trying to distinguish as to whether or not #2 and #3 need to retain their shipping papers for 2 years, provide shipper's certification, and signature on their shipping papers as required by shippers.

Also, whether or not #2 carrier is required to leave a copy of the shipping paper with receiver.

If you need additional information please reply back or phone as this appears difficult to explain.

Thanks

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