



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

1200 New Jersey Ave, SE
Washington, D.C. 20590

MAR 21 2011

Mr. Randolph Martin
DuPont Company
Hazardous Materials Distribution Consultant
4417 Lancaster Pike
Wilmington, DE 19375

Reference No. 10-0155

Dear Mr. Martin:

This is in response to your e-mail transmission asking for clarification of the Hazardous Materials Regulations (49 CFR Parts 171-180) applicable to hazardous materials communication. Specifically, your questions pertain to the party responsible for preparing shipping papers and ensuring that the packages are properly marked and placarded. You present two scenarios, which are paraphrased and addressed as follows:

Scenario 1:

You receive a hazardous materials shipment in a cargo tank motor vehicle or a portable tank. The tank is unloaded while the driver waits. The driver may or may not assist in the unloading. When the unloading is completed, the driver departs the site with the empty residue tank. You ask whether your understanding is correct that you would not be the shipper (offeror) in this scenario, and are under no obligation to: (1) ensure that the inbound shipping paper is correct; (2) prepare a new shipping paper; or (3) ensure the tank is properly marked or placarded.

PHMSA's Response:

If the carrier, as in the first scenario, is present during the time of unloading and the motive power is still attached to the transport vehicle, the carrier is responsible for all applicable HMR requirements, including shipping papers, marking and placarding.

Scenario 2:

A cargo tank motor vehicle or a portable tank is delivered to your site. The driver unhooks his tractor (motive power) and departs the facility. Your site employees unload the tank and a carrier is then called to return and pick up the empty residue tank. You ask whether your understanding is correct that you are the offeror and are responsible for compliance with all applicable U.S. Department of Transportation (DOT) regulations, including preparation of a shipping paper for the residue shipment in accordance with the HMR.

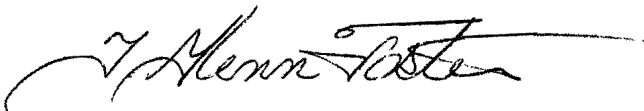
PHMSA's Response:

If the carrier, as in the second scenario, has unhooked the transport vehicle and the motive power is removed from the premises, the carrier's obligation is fulfilled and transportation has ended for them. In this scenario, when the carrier returns for the empty residue tank, Dupont is responsible for all applicable HMR requirements, including preparation of a shipping paper. Please note that if your employees perform any pre-transportation functions to prepare the cargo tank or portable tank containing the residue of a hazardous material for transportation in commerce, you are an "offeror" for purposes of the HMR. If you contract with the carrier to perform all pre-transportation functions related to the residue shipment, you are not considered an offeror for purposes of the HMR.

In addition, when a hazardous materials function is performed by a party other than yourself, you may rely on information provided by that party or may consider that a function is performed in accordance with the HMR, unless you know, or in the exercise of reasonable care, should know, that the HMR requirement is not being met in accordance with the HMR.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "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

McIntyre
§ 172.203(e)
§ 173.29

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Monday, July 19, 2010 4:33 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Request for Interpretation

Shipping Papers
10-0/55

Hi Carolyn,

We received the following request for a formal letter of interpretation at the Info Center.

Thanks,

Victoria Lehman
Hazmat Information Center
202-366-1035

From: Randolph Martin [mailto:Randolph.Martin@USA.dupont.com]
Sent: Monday, July 19, 2010 4:29 PM
To: INFOCNTR (PHMSA)
Subject: Request for Interpretation

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building
1200 New jersey Avenue, SE
Washington, DC 20590-0001

We are requesting a written interpretation from PHMSA on the need (or lack thereof) to provide shipping papers for shipments of the residue of hazardous materials in cargo tanks or portable tanks. There are 2 scenarios we would like you to respond to:

In the first, we receive a bulk shipment in either a cargo tank or portable tank. The tank is "live" unloaded while the driver is present (he may or may not assist in the unloading). Upon completion of unloading, the driver and empty (residue) tank are released. In this case we do **not** consider ourselves to be the shipper, and are under no obligation to ensure the inbound shipping paper is correct, or to prepare a new shipping paper, or to ensure the tank is properly marked or placarded.

In the second scenario, a cargo tank or portable tank is delivered to our site and the driver unhooks his tractor and departs the facility. At a later date the site unloads the tank and a carrier is then called to return and pick up the tank. In this case we **do** consider ourselves the shipper, and are responsible for compliance with all applicable DOT regulations, including providing a shipping paper for the residue shipment.

These 2 scenarios were discussed and confirmed verbally by the Hazardous Materials Information Center on May 11, 2010.

Looking forward to your reply.

Randolph Martin
DuPont Company

Hazardous Materials Distribution Consultant
4417 Lancaster Pike
3MP22/2222
Wilmington, DE 19375
Phone: 302-992-3443
e-mail: randolph.martin@usa.dupont.com

This communication is for use by the intended recipient and contains information that may be Privileged, confidential or copyrighted under applicable law. If you are not the intended recipient, you are hereby formally notified that any use, copying or distribution of this e-mail, in whole or in part, is strictly prohibited. Please notify the sender by return e-mail and delete this e-mail from your system. Unless explicitly and conspicuously designated as "E-Contract Intended", this e-mail does not constitute a contract offer, a contract amendment, or an acceptance of a contract offer. This e-mail does not constitute a consent to the use of sender's contact information for direct marketing purposes or for transfers of data to third parties.

Francais Deutsch Italiano Espanol Portugues Japanese Chinese Korean

http://www.DuPont.com/corp/email_disclaimer.html