



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

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

OCT 5 2010

Mr. Timothy Wiseman
Scopelitis, Garvin, Light, Hanson & Feary
10 W. Market Street, Suite 1500
Indianapolis, IN 46204

Ref. No.: 10-0192

Dear Mr. Wiseman:

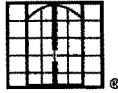
This responds to your August 31, 2010 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification of the shipping paper requirements in § 172.204 and § 177.817. Your questions are paraphrased and answered as follows:

- Q1) May a carrier correct a shipping paper after it has been certified by the shiper by crossing out the entry for a hazardous material, which was not accepted by the motor carrier because it did not comply with the packaging requirements in the HMR?
- A1) Yes. A carrier with knowledge of incorrect information may not continue to use that information (see § 171.2(e) and (f)) and must resolve any discrepancies pertaining to the shipment before it is accepted for transportation.
- Q2) By correcting a shipping paper after it has been certified by the shipper, does the motor carrier become the offeror of the hazardous material?
- A2) No. A carrier is not an offeror when it performs a function required by the HMR as a condition of acceptance of a hazardous material for transportation in commerce (e.g., reviewing shipping papers, examining packages to ensure that they are in conformance with the HMR, or preparing shipping documentation for its own use) or when it transfers a hazardous material to another carrier for continued transportation in commerce without performing a pre-transportation function (see § 171.8, definition of *person who offers or offeror*).

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

Sincerely,

Ben Supko
Acting Chief, Standards Development
Office of Hazardous Materials Standards



SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY
ATTORNEYS AT LAW
INDIANAPOLIS
CHICAGO • WASHINGTON, D.C. • LOS ANGELES • KANSAS CITY • CHATTANOOGA • DETROIT

Winter
\$172.204
\$177.817
Shipping Papers
10-0192

TIMOTHY W. WISEMAN
twiseman@scopelitis.com

10 W. Market Street, Suite 1500 Indianapolis, Indiana 46204
phone (317) 637-1777 fax (317) 687-2414
www.scopelitis.com

August 31, 2010

Office of Hazardous Material Standards
Pipeline & Hazardous Material Safety Adm.
PHH-10
U.S. Department of Transportation, E. Bldg.
1200 New Jersey Avenue, SE
Washington, Dc 20590-0001

Re: Request for Interpretation
49 C.F.R. §§ 172.204 & 177.817

To Whom It May Concern:

I have some questions with respect to the shipper certification requirements under 49 C.F.R. § 172.204 and § 177.817 that do not appear to be answered in previous guidance offered by the Pipeline & Hazardous Material Safety Administration ("PHMSA"). The shipping scenario from which my questions arise is as follows:

A motor carrier will occasionally transport multiple hazardous materials under a single bill of lading and shipper's certificate issued under § 172.204. Prior to acceptance of the consolidated shipment for transportation, the carrier discovers an error on the shipper certification in that one or more of the packages described on the certificate is not in compliance with the hazardous material regulations. Rather than require the shipper to reissue a new shipper certification, the carrier will instead refuse to accept the non-complying package and cross off that portion of the shipper certificate that references the non-accepted package. The remaining packages would then be accepted for transportation by the motor carrier under the original shipper certification. The shipper's certification with the motor carrier's handwritten notations would then be maintained by the motor carrier as required by § 177.817.

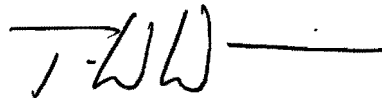
I have the following questions with respect to this scenario:

1. Is it permissible under the hazardous material regulations for a motor carrier to cross off an entry contained on the signed shipper certification?
2. If so, by crossing off an entry on the signed certificate, does the motor carrier become the new offeror of the shipment and thus responsible for all regulatory obligations of the shipper/offeror?

Based on my reading and understanding of the applicable regulations, it would appear that merely crossing off a specific hazmat package notation on the shipper's certificate is not altering or obliterating the certification itself, but rather only acts to signify that the package was not accepted for transportation by the motor carrier. However, in this case, the motor carrier wants to ensure compliance with the regulations and, in addition, not assume responsibility as the shipper/offeror for the accuracy of the information contained on the certification.

Any assistance you can provide in helping me understand these regulations in the context of the above-stated scenario is greatly appreciated. If you need any further information to respond, feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'T. W. Wiseman', followed by a horizontal line extending to the right.

Timothy W. Wiseman

TWW/kkc

cc: Joseph Solomey, Assistant Chief Counsel