



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

AUG 24 2011

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

Mr. Jason Tutrone
Law Clerk
Thompson Hine LLP
1920 N Street NW, Suite 800
Washington, D.C. 20036

Ref. No.: 10-0257

Dear Mr. Tutrone:

This is in response to your December 3, 2010, email requesting clarification of requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to functions performed at a cross-docking facility. According to your letter, packages of hazardous materials travel from the offeror location to a final destination by way of private carriage. Packages are transported from the offerors' facility to a cross-docking facility in full compliance with the HMR. Each package is appropriately marked and labeled and is accompanied by a shipping paper with a shipper's certification. Employees at the cross-docking facility unload packages from incoming trailers, route packages to appropriate outbound trailers, and subsequently load those packages onto the appropriate outbound trailer. In addition, cross-docking facility employees consolidate the shipping papers for the hazardous material packages contained in each outbound trailer and then create a new shipping paper listing each of the non-hazardous materials contained on the outbound trailer. Your questions have been paraphrased and answered as follows:

Q1. Do cross-docking facility employees perform a pre-transportation function by loading hazardous material onto outbound trailers?

A1. Yes. For a private motor carrier, transportation of a hazardous material in commerce begins when a motor vehicle driver takes possession of a hazardous material for the purpose of transporting it (see § 171.1(c)). Provided the driver is not present when the cross-docking facility employees load, block and brace the hazardous material in the transport vehicle they are subject to pre-transportation requirements (see § 171.1(b)(12)).

Q2. Have the cross-dock employees fulfilled the shipping paper requirements by consolidating the shipping papers prepared by the original offeror instead of creating a new shipping paper?

A2. Yes. For the purpose of consolidating multiple hazardous materials shipments offered by different shippers, either a single shipping paper describing the consolidated shipment, or individual shipping papers containing the required descriptions may be used to satisfy the shipping paper

requirements. Hazardous materials shipping papers must be clearly distinguished by tabbing or by having them appear first, if they are carried with other papers of any kind.

Q3. Are the shipping papers developed by the original offeror suitable for all movements between the origin and the final destination shown on the shipping paper?

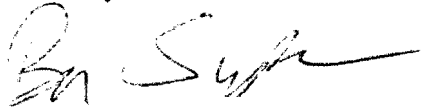
A3. Yes. Provided the shipping papers are completed and maintained in accordance with the appropriate HMR provisions and are still active (i.e., the shipment has not reached its intended destination as shown on the shipping papers). For example, as provided by § 177.817(e), when the driver is at the vehicle's controls, the shipping paper shall be: within his immediate reach while he is restrained by the lap belt; and either readily visible to a person entering the driver's compartment or in a holder which is mounted to the inside of the door on the driver's side of the vehicle.

Q4. If additional certification is necessary by the cross-docking facility, can cross-docking facilities apply additional signatures to the shipping documents?

A4. Yes. The HMR does not prohibit a carrier from applying additional signatures to a shipping paper.

I hope this answers your inquiry. If you need additional assistance, please contact the Standards and Rulemaking Division.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Supko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ben Supko
Chief, Standards Development Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

From: Betts, Charles (PHMSA)
Sent: Friday, December 03, 2010 6:59 PM
To: Drakeford, Carolyn (PHMSA)
Cc: Hilder, Mike (PHMSA)
Subject: Fw: Shipping Paper Certification

Leary
\$ 72.200
\$ 173.22
Shippers Responsibility / Shipping
Papers 10-0257

Carolyn-
Please log in this new request for interpretation.

From: Hilder, Mike (PHMSA)
Sent: Friday, December 03, 2010 05:05 PM
To: Betts, Charles (PHMSA)
Cc: Solomey, Joe (PHMSA)
Subject: FW: Shipping Paper Certification

Does your office want to treat this email as a request for an interpretation?

Mike

From: Tutrone, Jason [<mailto:Jason.Tutrone@thompsonhine.com>]
Sent: Friday, December 03, 2010 5:02 PM
To: Hilder, Mike (PHMSA)
Subject: Shipping Paper Certification

Mike,

Daeleen Chesley, with whom I worked in C-70, referred me to you regarding a shipping paper question. The facts are as follows:

- Shipper operates a distribution network that involves a cross-dock facility.
- Shipper ships hazardous materials to the cross-dock facility for distribution to clients. Each package of hazardous materials has an associated, certified shipping paper that lists shipper's origin facility as the consignor and the destination client as consignee.
- At the cross-dock facility, shipper unloads the hazardous materials from inbound trailers, routes them to outbound trailers, and loads them onto the trailers. Shipper does not repackage, classify, mark, placard, or perform any operation other than loading. For each trailer, shipper consolidates the original shipping papers of all packages on the trailer. Shipper then creates a shipping paper for the outbound load that does not list each hazardous material on board, but refers to consolidated packet of shipping papers for each package. Shipper then certifies the new shipping paper.

Is Shipper performing a pre-transportation function when loading the materials onto the trailers at the cross-dock? Has Shipper complied with the HMR shipping paper requirements for the shipment from the cross-dock by cross-referencing the original shipping papers for each package being carried? Do the shipping papers that stay with each package for the length of the supply chain fulfill the shipping paper requirements for the entire transportation from Shipper's origin to client's destination? If additional certification is necessary by the cross-dock, can the cross dock add its signature to the original shipping paper for each package?

If you could answer these questions or refer me to someone who can, I would appreciate it. Thank you.

Best regards,

Jason Tutrone | Law Clerk* | Thompson Hine LLP