



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

MAR 09 2012

Mr. Dennis Campbell
Hazmat Trainer – FRA
32827 Crestlake Blvd.
Magnolia, TX 77354

Ref. No. 12-0020

Dear Mr. Campbell:

This responds to your January 20, 2012 email regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask who must receive and retain a copy of the shipper's certification as required by § 174.24(a) when a shipper offers a hazardous material to a vessel operator for subsequent transportation by rail. You reference two letters of interpretation issued by PHMSA, one issued on June 25, 2010 (Ref. No.: 09-0103) and the other issued on December 11, 2009 (Ref. No.: 08-0301R). The June 25, 2010 letter states that "if a shipper offers a hazardous material shipment to a vessel operator for subsequent transportation by rail or highway, only the vessel operator is required to receive the shipper's certification." The December 11, 2009 letter states that the vessel operator is the "initial carrier in the United States." You ask that we clarify what is intended by the term "initial U.S. carrier" as specified in §§ 171.22(f)(2) and 174.24(a).

The term "initial U.S. carrier" is not defined in the HMR. As used in § 171.22(f)(2), it refers to the first carrier to transport a hazardous material shipment within the United States. A vessel operator may not transport a hazardous material shipment unless provided a signed shipper certification, as specified in § 176.27(a). Therefore, the vessel carrier must receive a signed shipper certification for all shipments.

You provide the following scenario: A steamship company (APL) transports a hazmat package to a U.S. port. The package is picked up at the port by one U.S. railroad (UP) and is subsequently transferred to a second railroad (BNSF) for delivery to a U.S. consignee. You ask if the UP Railroad is required to receive/file the shipper's certification. In the scenario you provide, the initial United States carrier, as specified in §§ 171.22(f)(2) and 174.24(a), is the vessel operator (APL). Only the vessel operator is required to receive the shipper's certification. The UP Railroad would not be required to receive the shipper's certification as it is not the initial carrier within the United States.

I hope this answers your inquiry. If you have further questions, please contact this office.

Sincerely,

Ben Supko
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Winter
§174.24(a)
Rail

From: INFOCNTR (PHMSA)
Sent: Friday, January 20, 2012 12:11 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Interpretation 174.24(a)

12-0020

Hi Carolyn,

We received the following request for a letter of interpretation.

Thanks,
Victoria

Victoria Lehman
Hazmat Information Center (HMIC)
<http://phmsa.dot.gov/hazmat/info-center>
(202) 366-1035

From: Campbell, Dennis (FRA)
Sent: Friday, January 20, 2012 11:38 AM
To: INFOCNTR (PHMSA)
Cc: Campbell, Dennis (FRA)
Subject: Interpretation 174.24(a)

January 20, 2012

I request an interpretation of the term “initial carrier within the U.S.”, as referenced in §174.24(a) pertaining to a shipper’s certification (§172.204) on a hazmat shipping paper. Several previous PHMSA letters of interpretation have been issued on the subject, but I’m not clear on the definition. One such letter, #09-0103 dated 6-25-2010, states in the third paragraph (last sentence) – “if a shipper offers a hazardous material shipment to a vessel operator for subsequent transportation by rail or highway, only the vessel operator is required to receive the shipper’s certification”. Another letter, #08-0301R dated 12-11-2009, states that the vessel operator is the “initial carrier in the U.S.”.

An example may serve to describe the issue. If a steamship company (APL) delivers a hazmat package to a U.S. port for delivery to a U.S. railroad (UP), which is subsequently interchanged to another railroad (BNSF) for delivery to a U.S. consignee. Is the UP (Union Pacific Railroad) considered the initial carrier in the U.S., or is the steamship company (APL) the initial carrier? In other words, would the UP Railroad be required to receive/ file the shipper’s certification?

As the current Hazmat Trainer for the Federal Railroad Administration, I understand that our hazmat inspectors have held the initial rail carrier accountable for receiving/maintaining the shipper’s certification on imported hazardous materials shipments. I appreciate your clarification on this subject.

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