



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAY 3 2006

Mr. John Culver
Culver Enterprises, Inc.
27881 Nanticoke Road
Salisbury, MD 21801-1646

Ref. No.: 06-0070

Dear Mr. Culver:

This is in response to your March 28, 2006, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether your drivers may act as "agents" for your customers and sign the shipper's certification.

The answer is yes. Under the provisions of § 172.204(d)(1), a shipper's certification "must be legibly signed by a principal, officer, partner, or employee of the shipper or his agent." At the direction of your customers or through contractual arrangement, a third party may perform the functions of an offeror (shipper), such as signing the certification statement on a shipping paper to certify that hazardous materials are being offered for transportation in accordance with the HMR. Under the HMR, any person performing functions of an offeror is responsible for performing those functions in accordance with the HMR.

Note that, because your drivers are acting as agents of your customers, your customers may be held responsible for your drivers' non-compliance with the HMR, and vice-versa. The degree of regulatory liability is usually determined on a case-by-case basis, and is dependent on the facts of the specific situation.

I hope this satisfies your request.

Sincerely,

Charles E. Betts
Senior Transportation Specialist
Office of Hazardous Materials Standards



060070

172.204(d)(1)

Drakeford, Carolyn <PHMSA>

From: INFOCNTR <PHMSA>
Sent: Tuesday, March 28, 2006 3:22 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Formal Response to 49CFR 172.204 (a)(d)(1)

B A H
§ 172.204(a)(d)(1)
Shipping Papers
06-0070

Please stat as a Interp Letter request, thanks!

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

From: jculver@dmv.com [mailto:jculver@dmv.com]
Sent: Saturday, March 25, 2006 7:38 AM
To: INFOCNTR <PHMSA>
Subject: Formal Response to 49CFR 172.204 (a) (d) (1)

Thank you for your telephone call confirming our understanding of 49CFR 172.204 (a) (d) (1).

I would like to request a formal response. ie, letter or e-mail to this question and our proposed solution to the problem.

We are a transporter of Regulated Medical Waste. We use a manifest the requires a signature of the generator (customer).

We have several customers, that when we go to pick up the waste there is on one in the office. For the most part the office is closed. We have keys, alarm codes or other means of access to the waste.

We are proposing to have our driver "SIGN" the certification as described in 49CFR 172.204 (a) (1) and as the "AGENT" of the shipper as described in 49CFR 172.204(a) (d) (1) & (2).

We would obtain from our Customer (shipper) a authorization letter stating there authorization for our driver to act as their AGENT in the signing the manifest on their behalf.

Thank you for your cooperation in this matter.

JOHN H. CULVER
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