



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

MAR 29 2003

Mr. Jack Peters
HAZ-MAT Transportation Services
P.O. Box 69206
Seattle, WA 98168

Ref. No. 02-0235

Dear Mr. Peters:

This responds to your September 6, 2002 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding recent changes to requirements for retention of shipping papers published in a final rule under Docket No. RSPA-01-10568 (HM-207B) on July 12, 2002. Specifically, you ask who is required to retain a copy of the shipping paper, the originating carrier or anyone who must have a copy for transportation purposes.

According to your letter, your understanding is that a copy of the original shipping paper is to be retained by the original carrier and that downline carriers do not have to keep copies except as required by § 175.33. You also note that carriers use transfer manifests to transfer a shipment from one carrier to another. The transfer manifest provides a paper trail to document the existence of a shipping paper, and includes the airway bill number, piece count, weights and usually a short description of the shipment, (i.e., Dangerous goods, Freeze, Live animal, etc.), date of transfer, signature of person accepting the transfer, the carrier's name, and sometimes, the signature of the person doing to transfer. Each carrier retains a copy of the transfer manifest, and the original shipping paper is retained by the original carrier.

For transportation of hazardous materials by aircraft, each person who provides the shipping paper and each person who receives a shipping paper as required by § 175.30 must retain a copy of the shipping paper, or an electronic image thereof, for a period of 375 days from the date the initial carrier accepts the shipment. The transfer manifest may be considered a shipping paper if it contains all the required information on the hazardous materials being shipped that was provided on the original shipping paper, including the date the initial carrier accepted the shipment. The date on the shipping paper may be the date a shipper notifies the air carrier that a shipment is ready for transportation, as indicated on the



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175.30

airbill or bill of lading, as an alternative to the date the shipment is picked up or accepted by the carrier. Only an initial carrier must receive and retain a copy of the shipper's certification, as required by § 172.204.

I hope this answers your inquiry.

Sincerely,



Delmer F. Billings

Chief, Standards Development
Office of Hazardous Materials Standards

U. S. D. O. T.
RSPA
Mr. Ed Mazzullo

August 20, 2002

Boothe
§ 175.30
Shipping Papers
02-0235

Ed,

This letter is to ask for an interpretation based on 175.30 that went into effect on August 12, 2002. Below is a copy from the Federal Register dated July 12, 2002.

----- DEPARTMENT OF TRANSPORTATION Research and Special Programs Administration 49 CFR Parts 172, 174, 175, 176, and 177 [Docket No. RSPA-01-10568 (HM-207B)] RIN 2137-AC64 Hazardous Materials: Retention of Shipping Papers AGENCY: Research and Special Programs Administration (RSPA), DOT. ACTION: Final rule. -----

SUMMARY: RSPA is amending the Hazardous Materials Regulations to require shippers and carriers to retain a copy of each hazardous material [[Page 46124]] shipping paper, or an electronic image thereof, for a period of 375 days after the date the hazardous material is accepted by a carrier. EFFECTIVE DATE: This final rule is effective on August 12, 2002. FOR FURTHER INFORMATION CONTACT: Deborah Boothe of the Office of Hazardous Materials Standards, (202) 366-8553, Research and Special Programs Administration, U.S. Department of Transportation.

Sec. 175.30 Accepting and inspecting shipments (a) * * * (1) * * * (2) Described and certified on a shipping paper prepared in duplicate in accordance with part 172 of this subchapter or as authorized by Sec. 171.11 of this subchapter. Each person receiving a shipping paper required by this section must retain a copy or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper immediately available, upon request, to an authorized official of a federal, state, or local government agency at reasonable times and locations. For a hazardous waste, each shipping paper copy must be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, each shipping paper copy must be retained for 375 days after the material is accepted by the carrier. Each shipping paper copy must include the date of acceptance by the carrier. Only an initial carrier must receive and retain a copy of the shipper's certification as required by Sec. 172.204 of this

I have several concerns but primarily on the interpretation on WHO retains a copy of the shipping paper for 375 days.

175.30 addresses only the "Accepting and inspecting shipments."

Under the old regulation, only the originating carrier had to retain a copy for a period of 90 days. For interline transportation, when a shipment is transferred from carrier "A" to carrier "B" only carrier "A" was required to retain a copy of the shipping paper. Under the new regulation, that does not appear to have changed. Here is why I state that. The regulation states the following. "Each person receiving a shipping paper required by this section must retain a copy or an electronic image thereof,"

A shipment can only be offered once and therefore can only be accepted once. Carrier "A" accepts the shipment from the person who offers it for transportation. Carrier "A" must comply with 175.30. When carrier "A" transfers the shipment to carrier "B" carrier "B" is not accepting it although they are receiving it. They are required to receive a copy of the shipping paper based on 175 33 (a)(2) to satisfy the requirement of the notification to the PIC and not on the basis of 175.30. Carrier "A" is not offering the shipment for transportation since they accepted it. Their name is not on the shipping paper in the shippers box. Quite often the person signing for the transfer is not the person who unloads it from the baggage cart into the warehouse or freight container in which it will go. Besides under the security regulations as they are now, if you are not a known shipper you cannot ship anything on a passenger aircraft.

As a shipper I am required to offer shipping papers as required by 172, subpart B. I am required to offer that in duplicate when shipping by air. One copy is retained by the carrier, in the files, for 375 days and the second travels with the shipment for downline carriers, for notification to the pilot in command. Obviously, one must be given to the consignee (or his representative) for delivery to the consignee.

My contention is that copy of the shipping paper is to be retained by the original carrier and that downline carriers do not have to keep copies except as required for 175.33.

Carriers have transfer manifests. They use these to transfer a shipment from one carrier to another. This provides the paper trail necessary to document the existence of a shipping paper. The transfer manifest has the airway bill number, piece count, weights and usually a short description of the shipment, (ie, Dangerous goods, Freeze, Live animal, etc.), date of transfer, signature of person accepting the transfer and some have the signature of the person doing the transfer. The carriers name is at the top of the manifest, also. Each carrier has a copy of the transfer manifest. The original shipping paper (or copy thereof) is retained by the original carrier. To have a downline carrier duplicate that is not only redundant but is extremely costly to the carriers.

Also, some carriers only accept under 49CFR as they are not trained to accept under ICAO/IATA. They state in their Operations Manuals/Cargo Manuals that, they only accept under 49CFR and will only transport shipments under ICAO/IATA when it is transferred to them. Many of these small carriers have limited space, revenue and personnel to train in both regulations.

If each carrier is "accepting" the shipment from another carrier then under ICAO/IATA a checklist must be used each time a shipment is transferred from one carrier to another. If a carrier only accepts under 49CFR, then those shipments would have to be refused and someone would have to offer under 49CFR. The whole scope of 135 operators in the remote areas of AK and other remote locations would change.

If each carrier who touches the shipment is required to retain a copy of the shipping paper for 375 days it would put an undue burden on those small carriers. Additionally, some small carriers do not have the electronic capabilities to comply in a timely manner.

I realize this is after the barn has been built, however, it is never too late to change or modify what is written. I am requesting a written determination to this dilemma.

Question being "who must retain copies of the shipping papers?" Only the originating carrier or anyone who must have a copy for transportation purposes? Which means every carrier who touches the shipment. Especially on interline shipments.

Thank you for your consideration in this manner and hope to see you again some day before we both get too old to do this. Please feel free to call me as I don't think I have adequately asked the question nor transmitted what I am trying to explain.

JLP

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