



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAY 29 2008

Mr. JP Gibbons
North American Transportation Consultants, Inc.
P.O. Box 1404
Hightstown, NJ 08520-0555

Ref. No.: 08-0128

Dear Mr. Gibbons:

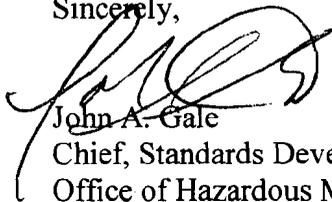
This responds to your May 7, 2008 letter requesting clarification on "storage incidental to transportation" as defined in §171.8 in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on the term "driver relinquishes possession" in the case of a private motor carrier.

You provide the following scenario: A hazardous materials shipment from Pittsburg, PA is bound for Trenton, NJ as the final destination on the shipping paper. The shipment is stored in a warehouse incidental to transportation in Newark, NJ. The shipment is then loaded onto a vehicle bound for the final shipping paper destination in Trenton, NJ. You request clarification on when transportation begins and ends during this shipment of hazardous materials based on the scenario provided above.

Transportation begins when the hazardous material shipment is offered to the carrier and the carrier takes possession of the shipment and continues until it is delivered to the final destination indicated on the shipping paper, and the carrier relinquishes possession of the shipment. If the hazardous material is transferred from one vehicle to another or placed in a warehouse awaiting a vehicle to move it to the final destination on the shipping paper, it is still in transportation or in "storage incidental to transportation." In the case of private motor carriers, "driver" means all drivers used by the private motor carrier to move the hazardous material from the shipment origin to the final destination noted on the shipping paper.

I hope this answers your inquiry.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



Boothe
§ 171.8
Definitions
08-0128

Chief, Hattie L. Mitchell
Regulatory Review and ReInvention
Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration

RE: Request For Interpretation 171.8

I would like a clarification on the following scenario concerning compliance with 171.8 and the meaning of "Storage incidental to movement of a hazardous material". Specifically there is some confusion on the use of the term "driver relinquishes possession" in the case of a private motor carrier.

A hazardous material is offered for transportation in Pittsburg, PA and the shipping paper indicates the final destination is Trenton, NJ. The material moves from Pittsburg, PA to Newark, NJ where it is placed in a warehouse awaiting transportation to Trenton, NJ its final destination. The hazardous material is loaded on a motor vehicle and transported from Newark, NJ to Trenton, NJ.

Using the above scenario my questions are:

Is it correct that a hazardous material is in transportation from the time it is offered in Pittsburg, PA and the carrier takes physical possession on the Original Shipping Document, until it is delivered to the destination indicated on the shipping document in Trenton, NJ?

If the hazardous material is transferred from one vehicle to another or placed at a warehouse awaiting a vehicle to move it to the destination identified on the shipping document, does it still remain in transportation under 49 CFR?

Does the fact that the carrier is a private motor carrier remove the material or shipment from the classification of "storage incidental to hazardous material" once the driver who started the movement turns the shipment over to another driver from the company or does the word "driver" imply all drivers used by the private motor carrier to move the hazardous material from the shipping origin to the final destination shown on the shipping document?

Your expeditious reply is greatly appreciated in this matter. If you require additional information feel free to contact me through this office at 609-426-0555.

Sincerely,

Michael J. Chiterson
for JP Gibbons

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