



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP 11 2006

Mr. Christopher Widman
Alliant Techsystems Inc. (ATK)
5050 Lincoln Drive
Edina, MN 55436-1097

Ref. No. 06-0174

Dear Mr. Widman:

This responds to your July 31, 2006, letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-185) to a hazardous waste generator. Specifically, you ask if a hazardous waste generator can be a generator and not a shipper, and, how the registration requirements under §107.601 apply for a facility that does not meet applicability requirements.

According to your letter, ATK is the owner of a facility that generates hazardous waste. The type and amount of hazardous waste being transported does not meet applicability requirements of §107.601 for DOT registration. You contract with a company to pack, mark and label the hazardous waste, as well as prepare the hazardous waste manifest. However, ATK provides the signature on the hazardous waste manifest, verifying compliance with the HMR.

As defined in §171.8, an "offeror" is any person who performs or is responsible for performing, any pre-transportation function required under the HMR for transportation of the hazardous material in commerce, or tenders or makes a hazardous material available to a carrier for transportation in commerce. Pre-transportation functions include: (1) determining the hazard class of the material; (2) selecting a packaging; (3) filling the packaging and securing its closures; (4) marking and labeling the package; (5) preparing the shipping paper; and (6) certifying that the hazardous material shipment is in proper condition for transportation in conformance with HMR requirements. Because ATK signs the hazardous waste manifest to certify that the shipment conforms to all applicable HMR requirements, ATK is an offeror for purposes of the HMR.

107.601
171.8

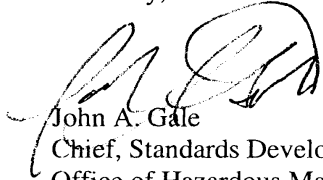


060174

Under §107.601, a person who offers or transports hazardous materials in the amounts listed must register. However, if ATK does not offer or transport hazardous materials for transportation the amounts listed in §107.601, then ATK is not required to register.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Gale', written over the printed name.

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



Booth
\$171.8
\$172.205
\$107.601
Applicability/
Definition
06-0174

5050 Lincoln Drive
Edina, MN 55436-1097

Date 31 July 2006
Subject DOT Ruling on §172.205

From Chris Widman
Organization Corporate Safety & Environment
MS MN01-4040
Christopher.Widman@ATK.COM

To DOT Info Center

Telephone 952-351-5506
Fax 952-351-3028

Dear DOT Info Center

Alliant Techsystems Inc. (ATK) is requesting review and response to questions regarding 49CFR §172.205 (**Hazardous Waste Manifests**) and the DOT definition of **shipper (generator)**. Specifically, can a person be a generator of Hazardous Waste, but not a shipper?

A copy of a standard Haz Waste Manifest (EPA Form 8700-22 (Rev. 3-05)) is submitted as a separate electronic attachment for review.

ATK believes the below Sections of 49CFR may also be worthy of review:

§107.601; Registration Applicability's
§ 172.504 (c); Placarding Exceptions for less than 454KG
§ 171.8; Definitions; Person who offers or offerer
§ 171.8; Definitions; Haz Mat Employee

Background

ATK is the owner of a facility that generates Hazardous Waste (Haz Waste). The type and amount of Haz Waste being transported do not meet the applicability requirements of §107.601, (DOT Registration Requirements).

The facility contracts with an approved Hazardous Waste Disposal company (Clean Harbors). Clean Harbors visits the facility upon our request and profiles the Haz Waste for transport and disposal. Part of the profile operation allows Clean Harbors to identify the appropriate DOT Proper Ship Name of the materials so they know what United Nations (UN) Packaging they need to bring with them on their return visit.

Clean Harbors then returns with DOT trained personnel who pack, mark and label the Haz Waste. Clean Harbors then generates the Haz Waste Manifest including identification of US DOT Description (paragraphs 9-14 of EPA Form 8700-22).

The ATK contract requires Clean Harbors to be responsible for meeting all DOT packaging, marking, labeling & shipping paper regulations. We also require that Clean Harbors identify and supply their own Lab Packs or other required packaging.

Because ATK is required to provide a signature on the Haz Waste Manifest, we believe they are by definition, a person who meets the applicability requirements of a Haz Mat Employee §171.8. As such, the ATK person who signs the manifest has completed all appropriate DOT Training.

The ATK Haz Mat Employee verifies that Clean Harbors has met all applicable DOT regulations (paragraphs 9-14 of EPA Form 8700-22) and signs paragraph 15 of Haz Waste Manifest.

Clean Harbors then loads the materials onto vehicles owned and operated by Clean Harbors, and transport the materials to an approved disposal facility.

Summary

ATK understands that there are regulatory differences between the applicability requirements of shippers and *carriers*. A person may be a shipper, but not a carrier. Or, a person may be a carrier, but not a shipper. We wish to determine if the same intent applies for generator (shipper)

Questions:

- 1) Can a person be a generator, but not a shipper?
- 2) If the answer to question #1 above is yes, ATK will continue to operate as such. If the answer to question #1 above is no, how does ATK obtain a DOT Registration (§107.601) for a facility that doesn't meet the applicability requirements?

Please do not hesitate to contact me with any questions regarding this request.

Regards,

Christopher J. Widman

Chris Widman

Christopher.Widman@ATK.COM

Tele: 952.351.5506

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator ID Number	2. Page 1 of	3. Emergency Response Phone	4. Manifest Tracking Number		
		5. Generator's Name and Mailing Address				Generator's Site Address (if different than mailing address)	
Generator's Phone:							
6. Transporter 1 Company Name				U.S. EPA ID Number			
7. Transporter 2 Company Name				U.S. EPA ID Number			
8. Designated Facility Name and Site Address				U.S. EPA ID Number			
Facility's Phone:							
9a. HM	9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	10. Containers		11. Total Quantity	12. Unit Wt./Vol.	13. Waste Codes	
		No.	Type				
1.							
2.							
3.							
4.							
14. Special Handling Instructions and Additional Information							
<p>15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent.</p> <p>I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.</p>							
Generator's/Offeror's Printed/Typed Name				Signature		Month Day Year	
<p>16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____</p> <p>Transporter signature (for exports only): _____ Date leaving U.S.: _____</p>							
17. Transporter Acknowledgment of Receipt of Materials							
Transporter 1 Printed/Typed Name				Signature		Month Day Year	
Transporter 2 Printed/Typed Name				Signature		Month Day Year	
18. Discrepancy							
<p>18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection</p> <p style="text-align: right;">Manifest Reference Number: _____</p>							
18b. Alternate Facility (or Generator)				U.S. EPA ID Number			
Facility's Phone:							
18c. Signature of Alternate Facility (or Generator)				Month Day Year			
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)							
1.		2.		3.		4.	
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a							
Printed/Typed Name				Signature		Month Day Year	