

RSPA-04-19123-13



298443

U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

DEPT. OF TRANSPORTATION  
DOT/CTS

04 OCT -1 PM 1:57

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

Mr. Edward McIntyre  
Manager, Hazardous Materials  
Crowley American Transport, Inc.  
Post Office Box 197  
Pennsauken, New Jersey 08110

OCT 10 1995

Dear Mr. McIntyre:

This is in response to your letter dated June 8, 1995, regarding the definition of an offeror. Specifically, you ask if an ocean carrier is an offer when they transfer a freight container from their control to another carrier (e.g., highway carrier).

The requirements of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) apply to persons who offer for transportation, accept for transportation or transport hazardous materials. Any one of several entities in a transportation movement could perform, singly or in combination, regulated functions (e.g., preparation of shipping papers, offering of placards, etc.). For purposes of administration and enforcement of the HMR, any person who performs any of the functions assigned by the HMR to a shipper is considered to be subject to the HMR as a shipper. Consideration of any one individual as a shipper does not exclude others from also being considered responsible as shippers for functions they perform. However, the interlining of a package or freight container of hazardous materials from one carrier to another for further transportation is not "offering for transportation" providing no shipper functions have been performed by the carrier.

I hope this satisfies your request.

Sincerely,

Delmer F. Billings  
Chief, Regulations Development  
Office of Hazardous Materials Standards



# CROWLEY AMERICAN TRANSPORT, INC.

*Handwritten notes:*  
Galk  
Regis  
File  
301-579-5000

June 8, 1995

Mr. Delmer F. Billings  
Chief, Regulations Development  
Office of Hazardous Materials Standards  
Research & Special Programs Administration  
Department of Transportation  
400 Seventh Street SW  
Washington, DC 20590

**Re: Certifications**

Dear Mr. Billings:

Thank you for your response to our letter of May 16, 1995.

We have a conflict of opinion in our letter and what is expressed in your letter.

In our letter, we expressed "It is Crowley's contention we never offered this container in transportation". The container was shipped sealed on a house to house, shipper load and count, through bill of lading basis from Santos to Wilmington.

In your letter of June 2, 1995, you state, "If the ocean carrier offers a container...". We accept the authority to use the shipper's certification, but we never offer the container. The shipper offered and certified the container through to Wilmington.

We trust you received the package we included with our letter of May 16, 1995. The package included multiple Coast Guard violations/penalties against Crowley for shipper responsibilities. The violations were for Crowley vessel and terminal "offering" the container.

Crowley registered with the Department of Transportation as a carrier yet there is a category titled "Offerer". We are a carrier not an offerer. Please explain your use of the word "offers" as described in your response letter. We insist we are not "offerer" of cargo/containers.

Department of Transportation  
Page 2  
June 8, 1995

Thank you for your attention and consideration to our letters. As you can see, this application is of major importance to us. If you desire, you may contact the writer at (609) 966-5806.

Very truly yours,

A handwritten signature in black ink, appearing to read "E. McIntyre". The signature is written in a cursive, somewhat stylized font.

E. McIntyre  
Manager, Hazardous Materials

EM:jr

cc: M. Hopkins