



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

AUG 13 2015

Ms. Jasmine A. Pena
8075 Azalea Circle
Chagrin Falls, OH 44023

Reference No.: 15-0127

Dear Ms. Pena:

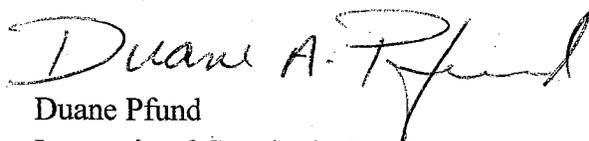
This responds to your email dated June-23, 2015 requesting clarification of the responsibility of an agent for service under 49 CFR § 105.40. Specifically, you ask for confirmation that agents for service of process (agents) are not liable for any wrongdoing or fault that was made by the company represented by the agent. Further, you ask whether the agent is responsible if the company represented by the agent is fined for a violation and does not pay the fine.

In accordance with 49 CFR § 105.40, an applicant who is a non-resident of the United States must designate an agent to facilitate legal service of process and receive official government documents from the jurisdictions where the applicant is operating. An agent: (1) may be an individual, a firm, or a domestic corporation; (2) may represent any number of principals; and (3) may not reassign responsibilities under a designation to another person.

In addition, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), each person who offers a hazardous material for transportation or transports a hazardous material in commerce is responsible for compliance with the requirements of the HMR, or an exemption, approval, or registration issued under the HMR, with respect to any regulated function that it performs or is required to perform. However, each person is responsible only for the specific regulated function(s) that it performs or is required to perform. Provided the agent does not perform any regulated function under the HMR, the agent would not be liable for any wrongdoing of the company represented by the agent.

I hope this information is helpful. Please let us know if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Duane A. Pfund". The signature is written in a cursive style with a large, prominent "D" and "P".

Duane Pfund
International Standards Coordinator
Standards and Rulemaking

Goodall, Shante CTR (PHMSA)

Antonelli
105.40
Designated Agents for
15-0127
Unon residents

From: Geller, Shelby CTR (PHMSA)
Sent: Tuesday, June 23, 2015 3:45 PM
To: Hazmat Interps
Subject: FW: Letter of Interpretation Request

Dear Shante and Alice,

Please see the formal letter of interpretation. Ms Pena spoke with Isaac Taylor in the HMIC.

Her address is:
8075 Azalea Circle
Chagrin Falls, OH 44023

Thanks,
Shelby

From: Jasmine Pena [<mailto:jasa.pena@gmail.com>]
Sent: Tuesday, June 23, 2015 11:04 AM
To: INFOCNTR (PHMSA)
Subject: Letter of Interpretation Request

Hello,

I have been asked to be an Agent of Service under citation 105.40. However, before I take on this responsibility I would like written confirmation that Agents of Service are not liable for any wrongdoings or faults that were made by the company. Further, if the company that the Agent of Service represents gets fined, and for some reason they do not pay, is the Agent of Service held responsible? I called the DOT hotline this morning and the representative said that Agents of Service are not liable; however, written proof of that information is not readily available. Fortunately, he suggested writing this email and requesting a "Letter of Interpretation." He stated that the response to this email will serve as written proof that Agents of Service are not liable. In summation, are Agents of Service liable for the faults and/or negligence made by the company they represent? Thank you, and I hope to hear back from you soon.

Best,
Jasmine A. Pena
(914)-327-6454