



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

Bridgette A. Lobstein
Executive Vice President
Operations Leader – Rail Services
General Electric
161 N. Clark St.
Chicago, IL 60601

MAR 23 2015

Ref. No.: 14-0134

Dear Ms. Lobstein:

This is in response to your July 3, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 - 180) applicable to the definition of a “hazmat employee” and the training requirements of Subpart H of Part 172 of the HMR. In your incoming letter, you state your business is divided into functions: Sales, Contract Administration, Business Development, Government Relations, Operations, Finance, Asset Management/Marketing, Compliance, Legal, Information Technology (IT) Systems, and Human Resources. The principle mission of serving your customers is through your Sales, Contract Administration, and Operations divisions. The Sales Team maintains customer relationships with the various industries served by the business. The Contract Administration Team provides customer relations support for the Sales Team on leases and billing. Operations includes oversight of shop management, car flow, fleet management, procurement, regulatory quality and compliance, Environmental Health and Safety, and Engineering. You state that you consider only Operations employees to be hazmat employees, and ask for clarification of a “hazmat employee” as defined by § 171.8 of the HMR. You also ask whether employees at the General Electric (GE) Railcar Services Chicago headquarters should be considered hazmat employees and subject to the quality assurance program (QAP) training requirements of 49 CFR Part 179.7.

In the scenario you describe, GE Railcar Services repairs, qualifies, and maintains a fleet of tank cars through its affiliated companies at locations (shops and mobile units) owned by GE Rail Services or third party providers. Some of the activities supporting the repair, maintenance, qualification, and marking of the GERS tank car fleet are performed at the Chicago headquarters (HQ) by personnel employed in different business units such as Sales, Contract Administration, and Operations.

Examples of these activities are:

1. Sales and/or Contract Administration personnel who confirm the ownership of tank car service equipment and interior coatings and linings required by 49 CFR Part 180.513.

2. Sales and/or Contract Administration personnel who approve the use of qualification and maintenance procedures developed by GE or third parties required by 49 CFR Part 180.513.
3. Sales and/or Contract Administration personnel who apply for Federal Railroad Administration (FRA) One Time Movement Approvals for nonconforming tank cars required by 49 CFR Part 174.50.
4. Engineering and Purchasing personnel who develop and approve written procedures for the repair, alteration, conversion, qualification and maintenance of tank cars, purchase replacement service equipment and gaskets required by 49 CFR 179.9 and 49 CFR Parts 180.501 through 180.517.

Per § 171.8, a "hazmat employee" is defined as a person employed by a hazmat employer and who, in the course of their employment, loads, unloads, or handles hazardous materials; designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce or directly affects hazardous materials transportation safety.

This Office agrees that your Operations workers would be considered hazmat employees. In other words, a person who performs duties that are regulated under the HMR is considered to be a hazmat employee. Persons who, in the normal course of their employment, perform or manage the work of those performing, one or more of the activities listed above would be considered hazmat employees and require general awareness, function-specific, safety/, security awareness and quality assurance program required by 49 CFR 172 .704 and 49 CFR 179.7 within 90 days of employment and every three years thereafter.

By contrast, we also note that sales/contracts employees would generally not be hazmat employees. For example, those persons who would not be considered hazmat employees would be Customer Service personnel whose only involvement in the tank car repair, qualification, and maintenance process is to send previously approved qualification, maintenance, and/or repair procedures to third party shops for use on GE tank cars unless they were also instrumental in securing FRA One Time Movement Approvals.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,



T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division



Andrews
171.8, 179.7
Definitions
14-0134

GE Capital

July 3, 2014

Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, DC 20590

Brigitte A. Lobstein
Executive Vice President
Operations Leader
Rail Services

161 N Clark Street
Chicago, IL 60601
USA

T +1 312 853 5295
F +1 312 853 5019
brigitte.lobstein@ge.com

To whom it may concern:

By way of introduction, I am the Operations Leader for General Electric Railcar Services Corporation and its affiliates, including General Electric Railcar Repair Services Corporation (collectively "GE Rail Services"). Larry Strouse, Railroad Safety Specialist of the Federal Railroad Administration has suggested that I ask for clarification of the definition of "hazmat employee" as set forth in 49 CFR § 171.8.

Specifically, GE Rail Services is seeking to understand PHMSA's interpretation of the QAP training requirements set forth in Section 179.7 (applicable to "tank car facilities") and how, if at all, they would apply to the corporate headquarters of GE Rail Services as a tank car owner.

By way of background, GE Rail Services is wholly owned by General Electric Capital Corporation, the financial services arm of General Electric. GE Rail Services consists primarily of two entities: General Electric Railcar Services Corporation which owns our railcar fleet, and General Electric Railcar Repair Services Corporation, which owns our railcar repair shops.

GE Rail Services provides financial products to the rail industry. These include operating leases, finance leases, and loan products. Operating lease products offer several financial benefits to our customers, including those related to short term (relative to the asset life) usage of the equipment. In order to offer, operating lease products, GE Rail Services owns the equipment which it offers for lease (approximately 110,000 railcars and 1,100 locomotives). In conjunction with this product, GE Rail Services offers maintenance and repair services for its equipment. This offering is made through its network of owned and third party contract shops. GE Rail Services oversees its shop networks through engineering support, process oversight, training, and quality audits. It should be noted that GE Rail Services does not offer maintenance and repair services to third party cars owners except on an incidental basis.

The corporate headquarters of GE Rail Services is located in downtown Chicago, IL. There are approximately 180 employees located there. Organizationally, the business is divided into functions: Sales, Contract Administration, Business Development, Government Relations, Operations, Finance, Asset Management/Marketing, Compliance, Legal, IT (Systems), and Human Resources. These functions serve two principal stakeholder groups: the business' shareholder GE Capital, and the customer base. Much of the work done at headquarters involves addressing the needs and concerns of those two groups. Charged with the principal missions of serving the customer are: Sales, Contract (Lease) Administration, and Operations. The Sales team is traditionally an organization that maintains customer relationships with the various industries served by the business (agriculture, grain, coal, chemicals, crude oil, pulp and paper). The Contract Administration provides customer relations support for the Sales team, handling customer concerns and questions regarding their leases, bills etc. during the term of the customer leases. It should be noted that both Sales and Contract Administration do not address equipment-related issues: these are handled by Operations. Operations includes oversight of the following activities: shop management, car flow, fleet management, procurement, regulatory quality and compliance, EH&S, and engineering. All of the employees in Operations in our corporate headquarters are salaried employees (as opposed to hourly) and do either supervisory or technical support for the field shop operations.

I give the above general description to give context to our question of whether employees at the corporate headquarters should be considered hazmat employees for purposes of the regulations. We consider only Operations employees to be hazmat employees. We have also conducted general awareness training for all headquarters employees. We do this because GE Rail Services strives to be an industry leader in the areas of safety, quality and regulatory compliance.

We believe that this is matter of importance to the leasing industry. We would be happy to meet with you to discuss our business and this issue in greater depth.

I would like to thank you in advance for your guidance to ensure our compliance with the regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Brigitte A. Lobstein". The signature is fluid and cursive, with a large initial "B" and "L".

Brigitte A. Lobstein