



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

MAR 24 2016

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

Mr. Kevin Lapp
Dangerous Goods Logistics Solutions, Inc.
1672 Norway Road
Kendall, NY 14476

Ref. No.: 15-0215

Dear Mr. Lapp:

This letter is in response to your October 22, 2015 email and subsequent phone call requesting the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to training requirements for hazmat employees. Specifically, you ask us to confirm your understanding that employees who author Safety Data Sheets (SDS) do not meet the definition of a "hazmat employee" and are not required to be trained. In your scenario, the employees determine the hazard classification for the transportation section of the SDS but do not physically prepare hazardous materials for transportation.

Hazmat employers are required by § 172.702(a) to "ensure that each of its hazmat employees is trained in accordance with the requirements" prescribed in Part 172, Subpart H of the HMR. As defined in § 171.8, a "hazmat employee" is any person who is "employed in a full-time, part-time, or temporary basis by a hazmat employer" and who in the course of employment "directly affects hazardous materials transportation safety."

The HMR do not require safety data sheets. Rather, the regulations prescribe what must be included on shipping papers and in emergency response information accompanying shipments of hazardous materials. As provided in § 173.22, it is the shipper's responsibility to properly "class and describe the hazardous material" for transportation. It is the opinion of this Office, that SDS authors who merely perform instructional or advisory functions concerning the HMR are not hazmat employees, subject to the training requirements. However, if the SDS authors are under contract by the client to determine the hazard class of materials intended for transportation, then the SDS authors are considered hazmat employees and must be trained in accordance with the HMR.

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

Sincerely,

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

Lehman
§ 171.8
Definitions
15-0215

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Thursday, October 22, 2015 2:16 PM
To: Hazmat Interps
Subject: FW: Interpretation request

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation. Mr. Lapp spoke with Kevin Leary.

Thanks,
Shelby

From: Kevin Lapp [<mailto:dgls2@yahoo.com>]
Sent: Thursday, October 22, 2015 11:40 AM
To: PHMSA HM InfoCenter
Subject: Interpretation request

Hello,

I have a customer whose employees are Safety Data Sheet (SDS) authors. As part of this function they determine the transport classification for section 14 of the SDS. This customer never actually prepares or offers hazardous materials for transport. Their employees work strictly in an office environment and many from their homes. As I read the definition of "hazmat employer" and "hazmat employee" in 49CFR 171.8 I do not believe they meet either definition. However, the transport classification the authors provide on the SDS could be used by their customers to prepare and offer hazards materials into commerce. Would the fact that the authors determine the transport classification on the SDS qualify them as "hazmat employees", and thus subject to all the DOT training requirements?

Thank you

Kevin Lapp
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