



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

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

JUN 30 2009

Mr. Thomas Leech
3720 Plum Point Drive E
Olive Branch, MS 38654

Ref. No.: 09-0139

Dear Mr. Leech:

This responds to your letter dated June 1, 2009 requesting clarification of the terms “hazmat employee” and “hazmat employer” as defined in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), as they apply to training of an “individual” or private citizen shipping “Cartridges, small arms, ORM-D.”

For purposes of the HMR, “hazmat employee” means a person who is employed by a hazmat employer and who, in the course of employment, directly affects hazardous materials transportation safety. The term “hazmat employer” means a person who uses one or more of its employees in connection with, among other things, causing a hazardous material to be transported or shipped in commerce. Under your scenario, an individual or private citizen does not meet the definition of a “hazmat employee” and is not required to have hazardous materials training. However, an individual or private citizen must comply with all applicable HMR requirements when offering hazardous materials to a commercial carrier for transportation in commerce.

As prescribed in the exceptions in § 173.63(b), small arms cartridges which have been classed as a Division 1.4S explosive may be reclassified, offered for transportation, and transported as ORM-D material when packaged in accordance with § 173.63(b)(2).

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Charles E. Betts
Chief, Standards Division
Office of Hazardous Materials Standards

Engram
§ 171.8
Definition
09-0139

June 1, 2009

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOTPHMSA (PHH- 10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Dear Mr. Mazzullo:

I am writing to you concerning clarification of the definition of "hazmat employee and hazmat employer" as defined in the Hazardous Material Regulations at 49 CFR Section 171.8, and the training requirements for an individual wanting to ship ORM-D materials (e.g. cartridges, small arms).

As an individual, if I wish to ship ammunition as Cartridges, Small Arms, ORM-D to a friend, what training and documentation is required? Is certification required? I am not shipping as an employer or employee, but as an individual.

The definitions under the Hazardous Materials Regulations at 49 CFR Parts 171.8 for "hazmat employee" and "hazmat employer" do not appear to apply to an individual that is not an employer or an employee. In addition, the training requirements under HMR 49 CFR Part 172.700-704 indicates that training is required for "hazmat employees" and "hazmat employers", but not to individuals who are not shipping in an employment capacity.

Your clarification and guidance related to this matter is appreciated.

Sincerely,

Thomas Leech

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