



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

MAR 3 1 2015

Mr. Randy Wheaton
American Marine Express
765 E 140th ST.
Cleveland, OH 44110

Ref. No.: 14-0177

Dear Mr. Wheaton:

This responds to your September 23, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to training requirements. In your letter, you describe customer service employees who contact hazardous materials shippers by phone to schedule appointments for drivers to pick up freight in overseas containers. You also describe dispatchers who speak to drivers who pick up containers with hazardous materials and transport them to rail roads for domestic transportation and export. To be proactive, your company may request that the shipping documents be sent to the freight forwarders, who then confirm the information is correctly documented. You ask whether these customer service employees and dispatchers are "hazmat employees" as defined in § 171.8 of the HMR.

The answer is no. The definition of "hazmat employee" reads in part that a person, who in the course of employment, directly affects hazardous materials transportation safety; loads, unloads, or handles hazardous materials; prepares hazardous materials for transportation; is responsible for the safety of transporting hazardous materials; or, operates a vehicle used to transport hazardous materials. A third party logistics company or broker who contracts with a carrier to transport a shipment on behalf of the original shipper is not considered an offeror for purposes of the HMR unless it also performs one or more pre-transportation functions to prepare the shipment for transportation in commerce.

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
Definitions
14-0177

From: Randy Wheaton [mailto:randyw@amxtrans.com]
Sent: Monday, September 22, 2014 3:36 PM
To: PHMSA HM InfoCenter
Cc: Julie B
Subject: Interpretation request

Hello,

Our office is trying to get clarification on a term that seems vague in the category of exactly who it is that falls into the heading of a Hazmat Employee!

The term we are having issues with is "*is responsible for the safety of transporting hazmat*".

We have Customer Service people in our office who contact hazmat shippers by phone to schedule appointments for our drivers to arrive and pickup this freight in overseas containers.

To be proactive in getting the rail billing in place, we at times request the documents from the shippers solely to forward to the Freight Forwarders, who confirm the info is correctly documented and forward on to the Steamship lines who ultimately confirm and forward to the rail roads Hazmat departments for confirmation and data entry into their systems.

We also have dispatchers who speak with the drivers who pickup hazmat goods in full container loads and transport them to the rail roads for domestic transportation and export freight.

Neither one of these jobs really seem to fall into this "*Is responsible for the transportation*" category.

The Shippers provide the documents.

The Forwarders confirm the documents.

The Forwarders send the documents to the rails and the drivers pickup, transport and deliver to final destination.

Can you clarify if our dispatchers and customer service roles fall into this category or not?

Randy Wheaton
AMX Dispatch & Customer Service
PH 216-268-3005
FX 216-268-3006

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Tuesday, September 23, 2014 1:23 PM
To: Hazmat Interps
Subject: FW: Interpretation request

Shante and Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Randy Wheaton [<mailto:randyw@amxtrans.com>]
Sent: Tuesday, September 23, 2014 7:34 AM
To: Ciccarone, Michael CTR (PHMSA)
Subject: RE: Interpretation request

Mike,

We are at address below, please direct to me, thank you.

American Marine Express
765 E 140th St
Cleveland OH, 44110.

Randy Wheaton
AMX Dispatch & Customer Service
PH 216-268-3005
FX 216-268-3006

From: m.ciccarone.ctr@dot.gov [<mailto:m.ciccarone.ctr@dot.gov>]
Sent: Monday, September 22, 2014 4:29 PM
To: Randy Wheaton
Subject: RE: Interpretation request

Dear Randy,

We have received your request for a written letter of interpretation regarding the hazardous materials regulations (49 CFR Parts 171-180).

Please include your company's physical address to expedite the submission process.

Sincerely,

Mike, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <http://phmsa.dot.gov/hazmat/regs/interps>