



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR 29 2007

Mr. Byron Snapp
V.P. Field Operations
EHS Associates, Inc.
3787 River Road N., Suite A
Keizer, Oregon 97303-6382

Ref. No.: 07-0015

Dear Mr. Snapp:

This responds to your January 19, 2007 letter concerning responsibility for certifying records of training for hazmat employees under the training requirements in Subpart H of Part 172 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask about training conducted by a contractor on behalf of a hazmat employer.

In accordance with § 172.704(c) and (d), each hazmat employer must certify that each of its employees has been trained and tested within 90 days of employment. While responsibility for providing training rests with the hazmat employer, training may be provided by trade associations, labor unions, or any other organization acting on behalf of the hazmat employer. The hazmat employer must maintain a record of training for each hazmat employee. This record must include the employee's name; the most recent training completion date of the hazmat employee's training; a description, copy, or the location of the training materials used; the name and address of the person providing the training; and certification that the hazmat employee has been trained and tested. The required training certification may be signed by a representative of the hazmat employer (e.g., General Manager, Shipping Manager, and Personnel Manager) or by an official representing the organization that provided the training on behalf of the hazmat employer.

The term "hazmat employee," as defined in § 171.8 of the HMR, includes all persons who, in the course of employment, perform functions that directly affect hazardous materials transportation safety. This term does not apply to every employed person who works at or around an area where hazardous materials are loaded, unloaded, handled, or stored. The employee's functional relationship to hazardous materials transportation safety, rather than incidental contact with hazardous materials in the work place, is the



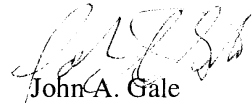
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172.704 (c)
and (d)

primary factor in determining whether an individual is a “hazmat employee” for purposes of the HMR.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,



John A. Gale

Chief, Standards Development
Office of Hazardous Materials Standards

Engrum
§ 172.704(d)(5)
Training
07-0015



January 19, 2007

Office of Hazardous Material Standards
Mr. Edward T. Mazzullo
Pipeline and Hazardous Materials Safety Administration
Department of Transportation
Fax: (202)366-3012

Dear Mr. Mazzullo,

I am requesting a written letter of interpretation in response to this question. Whom in a business is capable of making / signing the certification required in 49-CFR 172.704(d)(5)?

My understanding is that the "hazmat employer" as defined in 49-CFR 171.8 must make / sign the certification. Here is my reasoning:

- 49-CFR 172.704(d): "...in accordance with this section shall be created and retained by each hazmat employer for as long..."
- PHMSA's on-line guide titled, "Training Requirements Under the Hazardous Materials Regulations" found at <http://hazmat.dot.gov/training/trainreq.htm> has a content section titled "Training Requirements". It states that, "Each hazmat employer must: train and test, certify, and..."

If a company manager such as a General Manager, Shipping Manager, Parts Manager, Service Manager, etc., hires a trainer to conduct the training and testing required in 49-CFR 172.700, but does not attend or conduct the training, may that manager make / sign the required certification?

From my understanding, these managers have been hired by the "hazmat employer" to run specific departments in the company. Therefore, they would be classified as "hazmat employees" under 49-CFR 171.8. Could you please clarify whether or not these department managers are "hazmat employers" or "hazmat employees" and whether or not they are allowed to make / sign the certification.

Respectfully,

A handwritten signature in black ink that reads "B Snapp".

Bryon Snapp
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