



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

AUG 29 2013

Mr. Dwight Doughty, Jr.
Maine Department of Transportation
Environmental Office
State House Station 16
Augusta, ME 04333

Ref. No. 13-0132

Dear Mr. Doughty:

This responds to your June 12, 2013 request for clarification regarding hazmat training requirements for ferry vessel employees under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the hazmat training requirements apply to vessel employees assisting in the positioning of transport vehicles carrying hazardous materials.

According to your letter, state ferry employees assist with positioning transport vehicles onto ferries, based on the size and weight of each transport vehicle. The employees do not handle, manage, load, unload, or prepare paperwork for the hazardous materials carried by any transport vehicle. You ask whether state ferry employees who assist in the positioning of transport vehicles carrying hazardous materials are "hazmat employees" as defined in § 171.8.

The HMR defines a hazmat employee as a person who, in the course of employment, directly affects hazardous materials transportation safety. The definition includes a person who is responsible for safety of transporting hazardous materials.

Transport vehicles carrying hazmat on a ferry vessel must be positioned in accordance with the segregation requirements of § 176.83. Pursuant to § 176.89(a)(2), a "vessel representative" must direct placement of such transport vehicles.

State ferry employees who position transport vehicles carrying hazmat to comply with § 176.83, or direct placement of such transport vehicles as required by § 176.89(a)(2), directly affect hazardous materials safety and bear responsibility for the safe transportation of hazardous materials. Such employees are "hazmat employees" and are subject to the training requirements of §§ 172.700-704.

I hope this answers your inquiry. If you need additional assistance, please call this office at (202) 366-8553.

Sincerely,

Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Boothe
3172-704
§ 176.88

From: INFOCNTR (PHMSA)
Sent: Monday, June 24, 2013 9:48 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: HazMat Employee Training

Training
13-0132

Hi Carolyn,

Is this letter in the database?

Thanks,
Victoria

From: INFOCNTR (PHMSA)
Sent: Wednesday, June 12, 2013 4:51 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: HazMat Employee Training

Hi Carolyn,

This caller requested we submit this e-mail as a formal interp request. This caller spoke at length with Steve Webb about this issue.

Thanks,
Victoria

From: Doughty, Dwight [<mailto:Dwight.Doughty@maine.gov>]
Sent: Wednesday, June 12, 2013 3:15 PM
To: INFOCNTR (PHMSA)
Subject: HazMat Employee Training

Hello –

Can you please provide insight relative whether state employees operating Ferry Vessels between the mainland and various islands along the Maine coast are defined as HazMat employees when transport vehicles roll on carrying hazardous materials? In 176.88 – Applicability, it is suggested that the subpart is applicable to the transport vehicle; much of Subpart E appears to deal specifically with requirements for the transport vehicle while on board the vessel. With respect to our on-board employees, they assist with the positioning of the transport vehicle based on size and weight. They do not handle, manage, load/off-load or prepare paperwork for the hazardous material carried by the transport vehicle.

Thank you in advance for your prompt response.

Dwight Doughty, Jr.
Division Manager
MaineDOT Groundwater and Hazardous Waste Division
(207) 592-6646

Boothe, Deborah (PHMSA)

From: Webb, Steven (PHMSA)
Sent: Thursday, June 27, 2013 9:20 AM
To: Boothe, Deborah (PHMSA)
Subject: RE: New Interp

I remember talking to this gentleman quite well, as we had opinions that were almost exactly opposites of each other. While he, and you are correct that subpart E consists of requirements for transport vehicles containing hazardous materials being transported on board ferry vessels, that fact does not overrule the fact that when hazmat is in a car and placed on board a ferry, that ferry is in commerce and is subject to the HMR, see 98-0605 and §176.1 which states this part prescribes requirements in addition to those contained in 171, 172, and 173 of this subchapter. So if you agree that the requirements in 176 are simply additional requirements to the others in the book, training requirements apply if applicable. In this case if the person is a hazmat employee he needs training. He was careful in the wording of his question, and I think we need to be equally careful in our response. When he called he was convinced none of his employees needed training. The argument for the captain of the ferry to need training is almost a given. Once the cars are on the ferry there is no one else that can control what happens to the hazmat (ie if the captain runs the ferry into something). The crew on the ferry questions is a little more complicated. I'm ok with a response that says as long as they don't perform any function that impacts hazardous materials transportation safety they don't need training. For example if the crew positioning vehicles was doing so to comply with segregation requirements in § 176.83 then I would argue they are hazmat employees, if they are simply parking the cars as they come in and not having to deal with segregation, then they would not be hazmat employees. Hope that helps. I'm in tomorrow if you want to talk about it a bit in person.

Steve Webb

Transportation Specialist- International Standards
Pipeline & Hazardous Materials Safety Administration (PHMSA) -U.S. DOT
Office of Hazardous Materials Standards
1200 New Jersey Avenue S.E., E24-422, Washington D.C. 20590
E24-422
steven.webb@dot.gov
202-366-4579

From: Boothe, Deborah (PHMSA)
Sent: Thursday, June 27, 2013 8:46 AM
To: Webb, Steven (PHMSA)
Subject: New Interp

Good morning Steve!

I've been assigned the interp below. Can you please give me a summary of what you and Mr Doughty discussed?!

Thanks Steve! I'm tele today.

Have a great day!

Debbie

From: Boothe, Deborah (PHMSA)
Sent: Monday, June 24, 2013 2:53 PM
To: Drakeford, Carolyn (PHMSA)
Subject: RE: HazMat Employee Training

Dwight Doughty, Jr.
Division Manager
MaineDOT Groundwater and Hazardous Waste Division
(207) 592-6646