



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

1200 New Jersey Avenue, SE
Washington, DC 20590

FEB 16 2010

Ms. Lyn Russo
Hazmat Compliance Department
Mitsubishi International Corporation
655 Third Avenue
New York, NY 10017

Ref. No. 09-0238

Dear Ms. Russo:

This responds to your October 23, 2009 email and further communications with a member of my staff requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether your subsidiary company is required to register as an offeror or transporter of hazardous materials in accordance with the requirements in 49 CFR Part 107, Subpart G.

According to your October 23 and December 15 emails:

- Your subsidiary company purchases methanol in bulk from overseas companies, takes title to the methanol on arrival at a U.S. port, but never takes physical possession of the methanol or performs any pre-transportation or transportation function as defined in §§ 171.1 and 171.8.
- Your subsidiary company leases space for storage of the methanol in tanks owned by terminal companies.
- Your subsidiary company sells the methanol stored at a terminal. When the methanol is sold, (1) either the subsidiary company or the customer hires a carrier company to transport the methanol from the terminal to the customer; and (2) the carrier company and the terminal company handle the physical transfer of the methanol from the storage tank to the transport vehicle, and they prepare the shipping papers that accompany the methanol during transportation.
- Your subsidiary company, in all cases, is independent of the terminal company and the carrier company. The carrier and terminal companies do not act as an agent for your subsidiary company when they perform services under contract with your subsidiary company.

Based on the information provided in your emails, it is the opinion of this Office that your subsidiary company does not offer or transport a hazardous material in commerce and thus, is not subject to the HMR and is not required to register under 49 CFR Part 107,

Subpart G. As provided in 49 CFR 107.601, a person who offers or transports certain types and quantities of hazardous materials is required to register and pay the annual registration fee. A "person who offers or offeror" means any person (e.g., a company) who: (1) performs, or is responsible for performing, any pre-transportation function (see § 171.1(b)) required under the HMR for transportation of a hazardous material in commerce; or (2) tenders or makes the hazardous material available to a carrier for transportation in commerce (see § 171.8). Contractual agreements such as the acquisition or transfer of ownership of hazardous materials prior to transportation; selection of a carrier to perform pre-transportation functions and/or transportation functions; and leasing of a transport vehicle (e.g., a rail tank car) for carriage of hazardous material in and of themselves do not constitute performing a pre-transportation function. Therefore, your subsidiary company is not subject to the HMR nor is it subject to registration requirements.

I hope this information is helpful. If you have further questions, please contact this Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is stylized and written in cursive.

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

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Monday, October 26, 2009 8:26 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Interpretations of Hazmat Regulations

Der Kinderen
§171.1
§107.601
Registration/Applicability
09-0238

Carolyn,
Here is another request for written interpretation.
Thanks,
Rob

-----Original Message-----

From: lyn.russo@mitsubishicorp.com [mailto:lyn.russo@mitsubishicorp.com]
Sent: Friday, October 23, 2009 4:17 PM
To: INFOCNTR (PHMSA)
Subject: Interpretations of Hazmat Regulations

Greetings,

I am writing to request an interpretation of the HMR on behalf of one of our subsidiary companies. Specifically, we would like to know if the following actions render our subsidiary company (Company A) subject to the HMR and the registration requirement under 49 CFR Part 107, Subpart G.

The supply chain is outlined as follows:

-Company A buys Methanol (Class 3, UN 1230) in bulk from overseas suppliers. It is shipped to the U.S. via ocean carrier. The terms of sale are C + F (title transfers to Company A when it arrives at a U.S. port).

-In the current import scheme, Company A is not the importer of record into the U.S..

-After importation, the methanol is held in storage tanks in the U.S. under the ownership and title of Company A.

-Company A distributes/sells the Methanol to U.S. customers.

-As a result of the sale, ownership and title is transferred to the U.S. customer when the methanol leaves the tank.

-Either Company A or their customer will hire carriers on their own to pick up the Methanol from the storage tanks.

-On occasion, Company A leases U.S. rail cars to transport the Methanol to customers.

At no time does Company A take physical possession of the goods. Company A leases space in storage tanks. They do not own the tanks. They do not operate nor own any carriers/delivery trucks. Company A never sees the goods, inspects carriers equipment nor performs any pre-transportation functions.

We would like your interpretation and advice to determine if Company A is subject to the HMR and the registrations requirements under 49 CFR Part 107, Subpart G.

Please feel free to contact me if you have any questions or concerns.

Thank you in advance for your prompt response.

Lyn Russo
Manager
Customs Compliance Department
Hazmat Compliance Department
Mitsubishi International Corporation
655 Third Avenue
New York, NY 10017

P) 212-605-2183
F) 212-605-2180
E) lyn.russo@mitsubishicorp.com