



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

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

AUG 17 2009

Mr. Richard Hoff
Compliance Specialist
Stresau Laboratory, Inc.
N8265 Medley Road
Spooner, WI 54801

Ref. No. 09-0154

Dear Mr. Hoff:

This responds to your letter regarding applicability of the training requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether certain company employees are subject to the training requirements of the HMR when performing a limited number of pre-transportation functions in accordance with detailed written instructions.

According to your letter, the employees place hazardous materials in packagings and mark, label, and stencil each packaging as part of the production process. You state that these company employees are not trained as required by the HMR. The preparation of a shipping paper and "final inspection" of the package is, as you state in your letter, performed by company employees that are fully trained in accordance with HMR requirements.

For purposes of the HMR, a "hazmat employee" is a person who, in the course of his employment, directly affects hazardous materials safety and includes an employee who loads, unloads, or handles hazardous materials or prepares hazardous materials for transportation. See § 171.8. Your employees meet the definition for "hazmat employee" in the HMR; thus, in accordance with § 172.702, the employees must be trained. This training must cover the elements in § 172.704. A hazardous material employee who performs any function subject to the requirements of the HMR may not perform that function unless instructed and tested in the requirements of the HMR that apply to that function. See § 172.702(b).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



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"Excellence in Energetics"

June 29, 2009

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U. S. Department of Transportation
East Building, 1200 New Jersey Ave., SE
Washington, DC 20590-0001

Stevens
§ 171.8
§ 172.702
Training
09-0154

Re: Second Request for determination of applicability

Dear Sir or Madam;

Recently, a group of our employees attended required retraining in the transportation of Hazardous Materials and Dangerous Goods in accordance with the provisions set forth in Title 49, CFR, and IATA, Dangerous Goods Regulations. As a result of this training, question has arisen with concern to the requirements related to labeling and packaging items for shipment.

In §171.800, 1, (iii), a *Hazmat Employee* is defined as an employee who *prepares hazardous materials for transportation*. According to the training instructor this requirement includes any label, stencil, marking or packaging that prepares the hazardous material for transportation, and requires any employee involved in such preparation to be trained and certified. This is where the problem arises and we have question as to the intent and application of the regulations.

Stresau Laboratory is primarily involved in the development and manufacture of explosive items under DoD contracts. As such, we must adhere to the packaging and labeling requirements of the contract, as detailed in DoD drawings and contract language. For the most part, the packaging, labeling, marking and/or stenciling is performed as a part of the production process rather than by the shipping department at completion. The final inspection of the items and preparation of bills of lading or other shipping documents are performed by trained and certified shipping department personnel.

Our opinion is that we are in conformance to the regulations by having this final preparation and shipping forms completion performed by trained and certified personnel, and that it is not necessary to train and certify all production personnel that may be involved in packaging, labeling, marking and/or stenciling. It's not necessary for production personnel to be trained, as all of the packing, labeling, marking and/or stenciling is dictated by contract language, drawings or procedure. In addition, providing training to all of our production personnel would place an enormous financial burden on us. We are a small company, with 80 employees, of which 43 are production employees.

Again, we are asking for a determination as to whether or not we are correct in the opinion that our production employees do not require training and certification under the regulations and our circumstances. Should you have any additional questions, please direct them to me at the address, phone, fax or e-mail provided. Thank you!

Truly yours,



Richard Hoff
Compliance Specialist



Wisconsin Green Tier participant