



U.S. Department  
of Transportation

1200 New Jersey Avenue SE  
Washington, DC 20590

**Pipeline and Hazardous  
Materials Safety  
Administration**

**JUL 19 2012**

Ms. Yuliana S. Wu  
Bechtel Corporation  
3000 Post Oak Blvd.  
Houston, TX 77056

Ref. No.: 12-0067

Dear Ms. Wu:

This responds to your e-mail dated February 29, 2012, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the definitions of a “hazmat employer” and “hazmat employee” as well as the associated training of a “hazmat employee.”

In your email you describe a scenario in which all the materials and equipment sourced and transported to your company’s construction projects are purchased from suppliers who pack and ship materials and equipment from their facilities. The materials and equipment, which may include hazardous materials as defined by the HMR, are never handled by your company’s traffic and logistics personnel. Furthermore, your company’s traffic and logistic personnel do not prepare any shipping documents for these shipments. However; your company’s traffic and logistics personnel are responsible for coordinating the movement with suppliers, export packers, freight forwarders, or air or ocean carriers. Based on this scenario, you ask if your company is considered a “hazmat employer” and if your company’s traffic and logistics employees are considered “hazmat employees,” and therefore required to be trained under the HMR.

As defined in § 171.8, a “hazmat employee” is any person who is employed in a full-time, part-time, or temporary basis by a hazmat employer and who in the course of employment directly affects hazardous materials transportation safety. Section 171.8 also defines a “hazmat employer” to mean a person who employs or uses at least one hazmat employee on a full-time, part time, or temporary basis, and who: (1) transports hazardous materials in commerce; (2) causes hazardous materials to be transported in commerce; or (3) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce. (See § 171.8 for the complete definitions of “hazmat employee” and “hazmat employer.”) As specified in § 172.702, a hazmat employer must ensure that each of its hazmat employees is trained in accordance with the requirements in Subpart H of Part 172.

Based on the information provided in your letter, it does not appear that your company's traffic and logistics personnel "directly affect hazardous materials transportation safety." Therefore, your company's traffic and logistics employees would not be considered hazmat employees and would not be subject to the training requirements in Subpart H of Part 172. In addition, based strictly on the limited business functions you described in your letter, your company would not be considered a hazmat employer.

I hope this answers your inquiry. If we can be of further assistance, please contact us at (202) 366-8553.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Supko". The signature is fluid and cursive, with the first name "Ben" and last name "Supko" clearly distinguishable.

Ben Supko  
Senior Regulations Officer  
Standards and Rulemaking Division

**Drakeford, Carolyn (PHMSA)**

Engram  
3171.8  
Definitions

**From:** INFOCNTR (PHMSA)  
**Sent:** Thursday, March 01, 2012 7:58 AM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Request a letter interpretation

12-0067

Hi Carolyn,

We received the following request for a letter of interpretation.

Thanks,  
Victoria

Victoria Lehman  
Hazmat Information Center (HMIC)  
<http://phmsa.dot.gov/hazmat/info-center>  
(202) 366-1035

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**From:** Wu, Yuliana [mailto:yswu@bechtel.com]  
**Sent:** Wednesday, February 29, 2012 9:08 AM  
**To:** INFOCNTR (PHMSA)  
**Cc:** Mottola, Dennis  
**Subject:** Request a letter interpretation

Mr. Charles E. Betts  
Director, Standards and Rulemaking Division  
U.S. DOT/PHMSA (PHH-10)  
1200 New Jersey Avenue, SE East Building, 2nd Floor  
Washington, DC 20590

Dear Mr. Betts,

We hereby respectfully request a letter of interpretation as to the applicability of 'Hazmat Employer' and 'Hazmat Employees' for Bechtel Corporation and our Traffic & Logistics employees. We've completed preliminary phone discussions with representatives of the Hazardous Materials Information Center (HMIC) on this subject. We now seek your written determination to confirm our preliminary discussions with HMIC representatives and our own self determination. Based on our phone discussions with HMIC representatives and our review of Title 49 CFR 171.8 the regulations as cited below, we do not believe these definitions apply to Bechtel and our employees. However, we do strongly encourage our Traffic & Logistics personnel to pursue Hazmat regulations training to increase their subject matter awareness and for further career development.

Bechtel is an Engineering Procurement and Construction (EPC) company. The following link describes our business more thoroughly should you be interested in reviewing. <http://www.bechtel.com/overview.html> We do not manufacture products of any type. All of the materials and equipment sourced and transported to our construction projects are purchased from suppliers who pack and ship materials and equipment from their facilities to a Bechtel designated destination. The destination could be a project jobsite, some interim destination such as an export packing facility or freight forwarder's warehouse for consolidation, or direct to a port or airport. The materials and equipment are never handled or documented for transport by Bechtel Traffic & Logistics personnel. Those responsibilities remain with the material/equipment supplier, export packer, freight forwarder or air or ocean carrier. By standard process our material/equipment suppliers are required to provide an MSDS form for any type of hazardous materials that will be

transported. Our Traffic & Logistics personnel are responsible for coordinating the movement with one of these entities by simply providing consignment or carrier routing instructions.

We would appreciate your earliest review and response to this request. Please contact the undersigned should you require further information for your review. Thank you in advance for your assistance.

**Hazmat employee means:**

(1) A person who is:

- (i) Employed on a full-time, part time, or temporary basis by a hazmat employer and who in the course of such full time, part time or temporary employment directly affects hazardous materials transportation safety;
- (ii) Self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous materials in commerce who in the course of such self-employment directly affects hazardous materials transportation safety;
- (iii) A railroad signalman; or
- (iv) A railroad maintenance-of-way employee.

(2) This term includes an individual, employed on a full time, part time, or temporary basis by a hazmat employer, or who is self-employed, who during the course of employment:

- (i) Loads, unloads, or handles hazardous materials;
- (ii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.
- (iii) Prepares hazardous materials for transportation;
- (iv) Is responsible for safety of transporting hazardous materials;
- (v) Operates a vehicle used to transport hazardous materials.

**Hazmat employer means:**

(1) A person who employs or uses at least one hazmat employee on a full-time, part time, or temporary basis; and who:

- (i) Transports hazardous materials in commerce;
- (ii) Causes hazardous materials to be transported in commerce; or
- (iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce;

(2) A person who is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting materials in commerce; and who:

- (i) Transports hazardous materials in commerce;
- (ii) Causes hazardous materials to be transported in commerce; or
- (iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce; or

(3) A department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or an Indian tribe; and who:

- (i) Transports hazardous materials in commerce;
- (ii) Causes hazardous materials to be transported in commerce; or
- (iii) Designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs or tests a package, container, or packaging component that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous materials in commerce.

**Person** means an individual, corporation, company, association, firm, partnership, society, joint stock company; or a government, Indian Tribe, or authority of a government or Tribe, that offers a hazardous material for transportation in commerce, transports a hazardous material to support a commercial enterprise, or designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. 5123 and 5124, a Department, agency, or instrumentality of the government.

**Person who offers or offeror means:**

(1) Any person who does either or both of the following:

- (i) Performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce.
- (ii) Tenders or makes the hazardous material available to a carrier for transportation in commerce.

(2) A carrier is not an offeror when it performs a function required by this subchapter as a condition of acceptance of a hazardous material for transportation in commerce ( e.g. , reviewing shipping papers, examining packages to ensure that they are in conformance with this subchapter, or preparing shipping documentation for its own use) or when it transfers a hazardous material to another carrier for continued transportation in commerce without performing a pre-transportation function.

Sincerely,

Yuliana S. Wu

Corporate Traffic & Logistics Supervisor

Bechtel Corporation

tel: (713) 235-3669 fax: (713) 235-1614

e-mail: [yswu@bechtel.com](mailto:yswu@bechtel.com)

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Houston, TX 77056*