



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JAN 22 2013

Barton Day
Shareholder
Posinelli Shughart
One East Washington St.
Suite 1200
Phoenix, AZ 85004-2568

Ref. No. 12-0269

Dear Mr. Day:

This is in response to your December 17, 2012 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to registration requirements. Specifically, you describe the following scenario and ask whether the company is performing a transportation-related function that requires registration:

Scenario: The company you describe owns active rail lines and rail yards within a metropolitan area and performs dispatching services for railroad traffic passing through the metropolitan area. The company does not own or operate any rolling stock and contracts all switching and related services to an independent railroad service provider. Is the company required to register in accordance with 49 CFR 107.601?

Response: The answer is no. The ownership of rail facilities or the performance of dispatching services does not automatically require registration under 49 CFR 107.601. Rather, registration is required of offeror and transporter entities that actually perform transportation-related functions as regulated by the HMR. The functions you describe do not fall into any such transportation-related category.

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Stevens
§ 107.601

Drakeford, Carolyn (PHMSA)

From: Billings, Delmer (PHMSA)
Sent: Tuesday, December 18, 2012 7:10 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Registration Issue

Registration
12-0269

Please log for response.
Thanks.

From: Barton Day [mailto:BDay@Polsinelli.com]
Sent: Monday, December 17, 2012 3:07 PM
To: Billings, Delmer (PHMSA)
Subject: Registration Issue

Del -

I'd like to get a written interpretation addressing the issue we discussed earlier today. Specifically, I'd like an interpretation along the lines stated below.

Facts: Company A owns active rail lines and rail yards within a metropolitan area and performs dispatching services for railroad traffic passing through the metropolitan area. Company A does not own or operate any rolling stock, and contracts all switching and related services to an independent railroad service provider.

Question: is Company A subject to registration requirements under 49 C.F.R. 107.601 as a result of its ownership of rail facilities or its performance of dispatching services?

Answer: No. Neither the ownership of rail facilities nor the performance of dispatching services triggers registration requirements under 49 C.F.R. 107.601. Instead, registration is required only for parties that actually perform transportation-related functions regulated under the hazardous materials transportation regulations.

I believe this reflects our earlier discussion accurately, but please let me know if you have any questions or concerns.

Thanks very much for your assistance,

BDD



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