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## Transportation/Hazardous Materials: U.S. Pipeline and Hazardous Materials Safety Administration Addresses Whether A "Hazmat Employee" Includes Individuals Who Author Safety Data Sheets?

### Arkansas Environmental, Energy, and Water Law Blog

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The United States Pipeline and Hazardous Materials Safety Administration ("PHMSA") addressed in a March 24<sup>th</sup> letter to Dangerous Goods Logistics Solutions, Inc. ("DGLS") a question regarding the applicability of Hazardous Materials Regulations ("HMR") to employees who author safety data sheets ("SDS").

DGLS asked PHMSA whether employees who author SDS fit within the scope of the HMR definition of a "Hazmat Employee" and therefore must be trained.

DGLS states that the referenced employees "determine the hazard classification for the transportation section of the SDS but do not physically prepare hazardous materials for transportation."

PHMSA notes that Hazmat employers are required by § 172.702(a) to "ensure that each of its Hazmat employees is trained in accordance with the requirements" prescribed in Part 172, Subpart H of the HMR. A Hazmat employee is defined in § 171.8 as 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."

The March 24<sup>th</sup> letter concludes:

The HMR do not require safety data sheets. Rather the regulations prescribe what must be included in the shipping papers and an emergency response information accompanying shipments of hazardous materials. As provided in § 173.22 it is the shipper's responsibility to properly "class and describe the hazardous materials" for transportation.

As a result, PHMSA states its opinion that:

... SDS authors who merely perform instructional or advisory functions concerning the HMR are not Hazmat employees, subject to the training requirements. However, if the SDS authors are under contract by the client to determine the hazard class of materials intended for transportation, then the SDS authors are considered Hazmat employees and must be trained in accordance with HMR.

[Click here to download a copy of the PHMSA letter.](#)