



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

MAR 24 2016

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

Mr. Kevin Lapp
Dangerous Goods Logistics Solutions, Inc.
1672 Norway Road
Kendall, NY 14476

Ref. No.: 15-0215

Dear Mr. Lapp:

This letter is in response to your October 22, 2015 email and subsequent phone call requesting the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to training requirements for hazmat employees. Specifically, you ask us to confirm your understanding that employees who author Safety Data Sheets (SDS) do not meet the definition of a "hazmat employee" and are not required to be trained. In your scenario, the employees determine the hazard classification for the transportation section of the SDS but do not physically prepare hazardous materials for transportation.

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. 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."

The HMR do not require safety data sheets. Rather, the regulations prescribe what must be included on shipping papers and in 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 material" for transportation. It is the opinion of this Office, 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 the HMR.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

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