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Transportation/Hazardous Materials: Pipeline and Hazardous Materials Safety Administration Interpretive Letter Addressing Training Requirements

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The Pipeline and Hazardous Materials Safety Administration (“PHMSA”) addressed in a November 22, 2022, Interpretive Letter the application of the Hazardous Materials Regulations to hazardous materials training for a forklift operator contracted by an air carrier. See Reference No. 22-0066.

PHMSA was responding to questions posed in a June 22, 2022, letter from Ameristar Air Cargo, Inc. (“AACI”) of Addison, Texas,

AACI described the forklift operator’s duties as including:

- Removing hazardous material cargo from a truck
- Placing that cargo onto an aircraft’s cargo hold floor (under the direct supervision of the hazardous materials trained employee of the air carrier)
- Pulling away from the aircraft (completing the task)

AACI noted that a hazardous materials trained air carrier employee then handles positioning and securing the cargo on the aircraft.

AACI assumed that the forklift operator is not loading the hazardous material cargo on the aircraft by:

. . . simply moving cargo from the truck to the aircraft without positioning and securing the cargo.

The forklift operator was in this scenario believed to not be a hazmat employee as defined in § 171.8 and therefore not subject to hazardous materials training.

PHMSA disagrees with this conclusion.

The agency states that a hazmat employee includes an individual:

. . . employed on a full-time, part-time, or temporary basis by a hazmat employer, who directly affects hazardous materials transportation safety and who – during the course of employment – loads, unloads, or handles hazardous materials. . .

The agency further states that loading incidental to movement of a hazardous material means loading of packaged or containerized hazardous materials onto:

. . . a transport vehicle, aircraft, or vessel for the purpose of transporting it when performed by carrier personnel or in the presence of carrier personnel.

Because the forklift operator is handling hazardous material cargo by moving it from the truck and then placing it on the aircraft, this is considered by PHMSA as loading incidental to movement and therefore a covered hazardous materials function.

PHMSA also distinguishes a previous interpretive letter (No. 98-0221).

A copy of the interpretive letter can be downloaded [here](#).