



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

400 Seventh Street, S.W.  
Washington, D.C. 20590

APR 11 2006

MS. Liese G. Howarth  
Gallagher & Howarth, P.C.  
Attorneys and Counselors at Law  
Suffield Village  
68 Bridge Street, Suite 207  
Suffield, CT 06078

Ref. No. 06-0044

Dear Ms. Howarth:

This responds to your letter requesting clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the Hazardous Materials Registration Program as specified in 49 CFR Part 107, Subpart G. Specifically, you ask if a transportation broker is subject to the HMR and the registration requirements.

According to your letter, Logistics Management Resources, Inc. (LMRI) is a licensed broker who arranges transportation for shippers and relays basic shipping information to carriers. LMRI's functions include: determining the shipping date, delivery date, shipper and shipper's location, consignee and consignee's location, description of shipment (all information is supplied by shippers), and type of equipment required. MRI never takes possession of the materials, and never sees the shipment nor inspects the carrier's equipment. The shipment transaction takes place when the carrier selected by LMRI presents itself at a shipper's location to pick up a shipment. LMRI has no means of verifying any information; it simply passes on information furnished by a shipper to the carrier. The carrier's driver must review and confirm all information. LMRI never has physical control over shipments and performs no pre-transportation functions. You ask whether your client's broker operations are subject to the HMR and the registration requirements in 49 CFR Part 107, Subpart G.

A broker does not need to register provided he does not perform a function of an offeror or carrier. Functions of an offeror include, but are not limited to the following: (1) selection of the packaging for a hazardous material; (2) physical transfer of a hazardous materials to a carrier; (3) classifying hazardous materials; (4) preparing shipping paper; (5) reviewing shipping papers to verify compliance with the HMR or international equivalents; (6) signing hazardous materials certifications on shipping papers; (7) placing hazardous materials markings or placards on vehicles or packages; and (8) providing placards to a carrier. In addition, carrier is defined in § 171.8 to mean a person engaged



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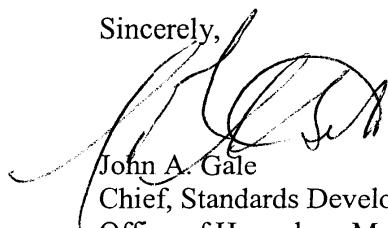
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in the transportation of passengers or property in commerce by rail car, aircraft, motor carrier, or vessel.

Based on the information provided in your letter, LMRI, is not subject to the HMR and the registration requirements in 49 CFR Part 107, Subpart G.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Gale", written over a light blue horizontal line.

John A. Gale  
Chief, Standards Development  
Office of Hazardous Materials Standards

GALLAGHER & HOWARTH, P.C.  
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June 16, 2005

Office of the Chief Counsel  
Research and Special Programs Administration  
Attn: DCC-10  
U.S. Department of Transportation  
Washington, D.C. 20590-0001

**RE: Request for Agency Opinion on the Applicability of the Hazardous Materials Offeror Definition 49 C.F.R. 171 and Registration Requirement of 49 CFR 107 to Broker Activities**

Dear Sir/Madam:

I am hereby requesting an informal agency opinion on behalf of my client, Logistics Management Resources, Inc., ("LMRI"), to clarify the applicability, if any, of 49 CFR 171 to its operations.

LMRI is a licensed broker based in Baton Rouge, LA. Essentially, LMRI arranges transportation for shippers and relays basic shipping information to carriers. LMRI pays carriers and invoices shippers for transporting loads. It does not manufacture, plan, package nor transport any product. LMRI receives shipment information from the shipper which it then passes on to the carrier. From LMRI's home office, it determines the following:

- Shipping date
- delivery date
- shipper and shipper's location
- consignee and consignee's location
- description of shipment (all information is supplied by shippers)
- type of equipment required

On occasion, LMRI has personnel at a shipper's location that perform these same functions using the shipper's computers and telephones, etc.

LMRI never takes possession of the product/materials, never sees the shipment nor inspects the carrier's equipment. The shipment transaction takes place when the carrier selected by LMRI presents itself at a shipper's location to pick up a shipment. LMRI has no means of verifying any information - it simply passes on information furnished by a shipper to the carrier. The carrier's driver must review and confirm all information. LMRI never has physical control

over shipments and performs no pre-transportation functions.

Accordingly, I am requesting this agency's confirmation that LMRI's broker operations as described do not constitute an "offeror," and do not fall within the purview of 49 C.F.R. 171 or the registration requirements of 49 C.F.R. 107

Thank you for your assistance with this matter. Understandably, my client wishes to avoid running afoul of these important regulations.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Liese G. Howarth", with a decorative flourish at the end.

Liese G. Howarth

LGH/cap