



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

MAR 9 2005

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

Mr. Jim Przybylski
Bechtel Nevada
P.O. Box 98521
Las Vegas, NV 89193-8521

Ref. No. 03-0316

Dear Mr. Przybylski:

This responds to your letter requesting clarification of the training requirements under § 172.704(a)(2)(i) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as related to Class 7 (radioactive) materials. I apologize for the delay in responding.

You state that, as authorized by § 171.11 of the HMR, your company ships Class 7 materials in compliance with the International Civil Aviation Organization's Technical Instructions for the Safe Transportation of Dangerous Goods by Air (ICAO Technical Instructions), and the applicable State and operator Variations noted in the ICAO Technical Instructions and the International Air Transport Association's Dangerous Goods Regulations. You were given written guidance that employees trained in accordance with the HMR are not required to be trained in accordance with the ICAO/IATA. You ask whether a hazmat employee who offers Class 7 materials for transportation is required to complete function-specific training only on the HMR requirements or must the training include function-specific training under the ICAO Technical Instructions, considering the HMR and ICAO requirements are not identical, e.g., package marking and shipment documentation.

When hazardous materials are prepared in accordance with the ICAO Technical Instructions, as authorized by § 171.11 of the HMR, a hazmat employee may receive function-specific training based on the requirements of the ICAO Technical Instructions, as an alternative to the function-specific training required by the HMR. As specified in § 172.704(a)(2)(ii), however, the training must address any additional functions and limitations identified in § 171.11, such as the requirements contained in § 171.11(d)(6). As you are probably aware, we revised the HMR requirements for transporting Class 7 materials based on



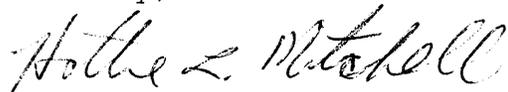
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172.704(a)(2)

changes contained in the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Materials (TS-R-1 (ST-1, Revised)). The requirements for transporting Class 7 materials contained in the HMR and the ICAO Technical Instructions are now more closely aligned.

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

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned below the word "Sincerely,".

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Bechtel Nevada

Mailing address: P.O. Box 98521
Las Vegas, NV 89193-8521

Express mail only: 2621 Losee Road
North Las Vegas, NV 89030-4129

Stevens
§ 172.704(a)(2)
Training
03-0316

DOT/RSPA/OHMS
UNIT

03 DEC -9 PM 5:08

A415-04-JP-0003

December 2, 2003

E. T. Mazzullo, Director
Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street Southwest
Washington, D.C. 20590-0001

Subject: **REQUEST FOR INTERPRETATION**

Bechtel Nevada offers for transportation, via air express carrier, Class 7 (radioactive) material. The U.S. Hazardous Materials Regulations (HMR) authorizes such transport in accordance with the International Civil Aviation Organization *Technical Instructions on the Safe Transport of Dangerous Goods by Air* (ICAO TI) as incorporated in the International Air Transport Association *Dangerous Goods Regulations* (IATA DGR). Accordingly, these Class 7 (radioactive) materials are prepared and shipped per 49 CFR 171.11, *Use of ICAO Technical Instructions* and applicable State and Operator Variations noted in the ICAO TI / IATA DGR.

The Bechtel Nevada Transportation staff received written guidance from an International Transportation Specialist at the Office of Hazardous Materials Safety (DHM-5) that states, "Employees who have been trained in accordance with the 49 CFR are not required to be trained in accordance with the ICAO/IATA. Our regulations are multimodal in scope and include the requirements specifically applicable to transportation by air. In this case, it would be duplicative to have IATA training on top of 49 CFR training."

Bechtel Nevada's Transportation staff is aware of the alternative suggested in 49 CFR 172.704(a)(2)(ii), but the guidance provided by DHM-5 is confusing. Inasmuch as the HMR and ICAO TI / IATA DGR are not identical (e.g., package marking and shipment documentation), Bechtel Nevada maintains that if Class 7 (radioactive) material shipments are prepared in accordance with the ICAO TI / IATA DGR as authorized by the HMR in §171.11, function-specific training must address the ICAO TI / IATA DGR and is not redundant in nature, even for hazmat employees previously trained per 49 CFR, Part 172, Subpart H.

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Therefore, in order to ensure continued compliance, Bechtel Nevada Transportation staff is requesting a definitive response to the following:

Is a hazmat employee who prepares a Class 7 (radioactive) material shipment in accordance with the ICAO TI / IATA DGR as authorized by the HMR in §171.11, required to complete function-specific training only on the requirements of the HMR, as indicated in the guidance received from DHM-5, or must the training include the applicable requirements of the ICAO TI / IATA DGR?

Thank you for your attention to this matter, and I look forward to your response. If you have any questions or require additional information, please contact me at (702) 295-7047.


Jim Przybylski
Supervisor, Transportation

JLP:cad
Subject Code: TRN 7

Enclosure: as stated

cc: Correspondence Control, w/enc., CF008
L. Kapit, w/o enc, NTS332
L. Rakow, w/o enc., NTS218

—Original Message—

From: Toolson, George [mailto:TOOLSOGP@nv.doe.gov]

Sent: Tuesday, October 14, 2003 10:30 AM

To: Kelley, Shane

Subject: Question

Mr. Kelley,

Thank you for taking the time to visit with me this morning. Per our conversation, we ship on a regular basis by air (primarily FedEx) non-accountable Sealed Radioactive Sources (SRS) which meet all the requirements of 49 CFR 173.421, and are shipped as "Radioactive Materials, Excepted Packaging, Limited Quantity, UN 2910.

Our staff who are in the field and use these SRSs, and who will eventually sign the air bill for the return shipment have all been trained in the requirements of 49 CFR 172.704.

We were recently informed by our Traffic/Transportation group, that those staff who are in the field and sign the air bill need to have in addition to the training required by 172.704, IATA training.

Can you provide some direction on this matter, do we need IATA training, or is the DOT training sufficient?

Thank you for your consideration on this question.

George P. (Pete) Toolson

Bechtel Nevada

Senior Operations Specialist
Counter Terrorism Operations Support

(702) 295-9693 - Direct

(702) 335-2006 - Cell

(702) 295-1555 - Fax

Kelley, Shane

From: Kelley, Shane
Sent: Tuesday, October 14, 2003 11:40 AM
To: 'Toolson, George'
Subject: RE: Question

Dear Mr. Toolson:

It was a pleasure speaking with you this morning.

Employees who have been trained in accordance with the 49 CFR are not required to be trained in accordance with the ICAO/IATA. Our regulations are multimodal in scope and include the requirements specifically applicable to transportation by air. In this case, it would be duplicative to have IATA training on top of 49 CFR training. I should also point out that IATA is not a government regulatory agency. IATA is an industry organization that, among other things, provides dangerous goods training services, and in some cases those services may be used to help satisfy our training requirements in 49 CFR. However seeing that your employees have already had the training required by 49 CFR, it would be redundant to also subject them to IATA training.

I hope this helps. Let me know if I can be of further assistance.

Best Regards,

Shane

Shane C. Kelley
International Transportation Specialist
Office of Hazardous Materials Safety, DHM-5
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, S.W. Room 8421
Washington, D.C. 20590-0001

Tel. (202) 366-4359

Fax (202) 366-5713

E-mail: shane.kelley@rspa.dot.gov

Website: <http://hazmat.dot.gov/>

International Section: <http://hazmat.dot.gov/intstandards.htm>