



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

AUG 20 2008

Ms. Erin Jarman  
Environmental Scientist  
URS Corporation  
1600 Perimeter Park Drive  
Morrisville, NC 27560

Ref. No. 08-0141

Dear Ms. Jarman:

This responds to your May 12, 2008 letter requesting clarification of the hazmat employee training requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you describe scenarios involving employees that fill packagings with hazardous materials intended for transport and ask whether the employees meet the definition of "hazmat employee" in § 171.8 and are subject to training requirements.

You provide the following scenarios:

Scenario 1: A technician is given a small DOT specification cylinder by a trained hazmat employee. The technician fills the cylinder with a gas sample and then returns the cylinder to a trained hazmat employee who prepares the cylinder with the gas sample for shipment. The technician has no involvement in the preparation of the cylinder for shipment (e.g., creating a shipping paper) other than filling it with a gas sample.

Scenario 2: A technician is given a bottle by a trained hazmat employee. The technician fills the sample bottle with a liquid or solid hazardous material and returns the bottle to a trained hazmat employee who prepares the bottle with the sample for shipment. This technician has no involvement in the preparation of the bottle for shipment (e.g., creating a shipping paper) other than filling it with a sample of a liquid or solid hazardous material.

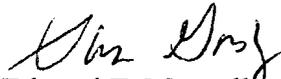
Scenario 3: An automated process fills and caps bottles with a hazardous material and closes the fiberboard boxes into which the bottles are placed. The process is completely automated except that employees are tasked with placing the filled and capped bottles in boxes and then routing the boxes along the production line to be closed.

All of the employees described in your three scenarios are considered hazmat employees for purposes of the HMR. As defined in § 171.8, a hazmat employee is a person who, in the course of his or her employment, directly affects hazardous materials transportation safety. An employee who fills a packaging with a hazardous material or places inner packagings or

receptacles into outer packagings is performing a function that directly affects transportation safety and, thus, is subject to the training requirements in § 172.704 of the HMR. Note that training provided in accordance with standards or regulations of other federal agencies, such as the Occupational Safety and Health Administration or the Environmental Protection Agency, may be used to satisfy the training requirements in § 172.704, provided such training addresses the training components specified in § 172.704(a).

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



Edward T. Mazzullo,

Director

Office of Hazardous Materials Standards



Der Kinderen  
§ 171.8  
§ 172.704  
Definitions Training  
08-0141

May 12, 2008

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards  
U.S. DOT/PHMSA (PHH-10)  
1200 New Jersey Avenue, SE East Building, 2nd Floor  
Washington, DC 20590

Dear Mr. Mazzullo:

I am writing to you concerning clarification of the definition of "hazmat employee" as defined in 49 CFR Section 171.8. Would you please provide clarification on the following scenarios?

**Scenario 1:** A technician is given a small DOT specification cylinder by a trained HAZMAT employee for the purpose of collecting a gas sample. Following company standard operating procedures, the technician takes the cylinder to the sampling location, opens a valve and collects the requested sample. Once the technician has collected the gas sample, the technician takes the cylinder to a trained hazmat employee so that the trained employee can prepare the hazardous material for shipment (e.g., checking the valves on the cylinder, packaging, marking, labeling, creating shipping papers, etc.). The technician who collects the gas sample has no responsibility in selecting the appropriate packaging for the hazardous material, marking or labeling the package, or creating shipping papers for the shipment. In this scenario, would the technician who collects the gas sample be considered a "hazmat employee" and therefore require training under §172.704?

**Scenario 2:** A trained HAZMAT employee selects and provides to a technician a sample collection bottle appropriate for the liquid or solid sample being collected. Following company standard operating procedures, the technician fills the sample bottle and takes the sample to a trained HAZMAT employee in the Shipping Department who verifies that sufficient headspace remains in the container, the closure and caps on the container are secured, the material has been packaged in the correct packaging, the package has been marked and labeled correctly, and that shipping papers have been created, if applicable. Would the technician who collected the sample be considered a HAZMAT employee requiring DOT training?

**Scenario 3:** A company manufactures and ships materials that meet the definition of a Consumer Commodity (ORM-D). Individual bottles of product are filled by machine in an automated process. Caps for these bottles are also applied and closed by the machine. The machine routes the filled and closed bottles down a production line for further packaging. Once the bottles reach a certain point in the production line, employees grab the bottles and place them into fiberboard boxes. Once a box is filled, the open box containing the bottles of product is then routed further down the production line where each box is taped closed by a machine. Would the employees whose only responsibility it is to put the bottles of product into the open box be considered "hazmat employees" and, therefore, require the training specified in §172.704?

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Erin N. Jarman". The signature is written in a cursive, flowing style.

Erin N. Jarman  
Environmental Scientist

URS Corporation  
1600 Perimeter Park Drive  
Morrisville, NC 27560  
Tel: 919-461-1478  
Fax: 919-461-1371  
Erin\_Jarman@urscorp.com