



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JUL - 6 2000

Ref. No. 00-0176

Mr. David E. Jones
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
600 Peachtree Street
Suite 2100
Atlanta, GA 30308

Dear Mr. Jones:

This is in response to your letter dated June 6, 2000, regarding the applicability of training requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

- Q1. Must a driver be trained if he will transport Class 9 materials in non-bulk packages?
- A1. The answer is yes. Section 172.704(a) specifies that all hazmat employees must receive general awareness, function specific and safety training. A hazmat employee is a person employed by a hazmat employer who during the course of his/her employment directly affects hazardous materials transportation safety (see § 171.8). Therefore, a person who performs duties that are regulated under the HMR is considered to be a hazmat employee and must be trained under Part 172, Subpart H.
- Q2. Who is required to maintain the training records for a driver?
- A2. Section 172.704(d) requires that a record certifying each hazmat employee's current training be created and retained by the hazmat employer.

I hope this satisfies your request.

Sincerely,



John A. Gale

Transportation Regulations Specialist
Office of Hazardous Materials Standards



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June 6, 2000

Edward Mazullo, Director
Office of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
Washington, D.C. 20590

Re: Request for Written Opinion

Dear Mr. Mazullo:

This letter requests the written opinion of your agency on the following issue:

When a manufacturer arranges for an outside trucking company to transport a domestic shipment by truck of non-bulk miscellaneous hazardous materials where a Class 9 placard is not required as per 49 C.F.R. 172.504(f)(9), must the driver be certified as having successfully completed HAZMAT employee training in accordance with 49 C.F.R. 172.704 and, if so, is the manufacturer or the outside trucking company responsible for maintaining records of the driver's certification?

We would appreciate receiving your agency's written opinion on this matter, with citation to applicable regulations or other authority, at your earliest convenience.

Truly yours,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.



David E. Jones

DEJ/dj
Enclosures