



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

JAN 10 2002

Mr. Joseph Cleveland
Hazardous Materials Advisory Council
203 Towne Centre Drive
Hillsborough, NJ 08844

Ref. No. 01-0317

Dear Mr. Cleveland:

This is in response to your November 13, 2001 letter concerning the training requirements in the Hazardous Materials Regulations (HRM;49 CFR Parts 171-180). Specifically, you ask that we clarify the responsibility of the hazmat employer with regards to function-specific training required in § 172.704 (a)(2) if part, but not all, of this requirement is met through a third party training program.

It is the responsibility of the hazmat employer to ensure and certify that each hazmat employee receives function-specific training concerning requirements of this subchapter, which are specifically applicable to the functions the employee performs, in accordance with § 172.704 (a)(2). This may be accomplished by any number of training methods, including the use of third-party training facilities.

Please note that this office neither reviews nor certifies training programs. Each hazmat employer has its own unique operational requirements. A hazmat employer must determine training needs of its hazmat employees based on the employer's requirements and each employee's specific job functions.

I hope this satisfies your request.

Sincerely,

Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards

172.704



HMAC



HAZARDOUS MATERIALS ADVISORY COUNCIL

Union/Middlesex

To: U.S. Department of Transportation
Research & Special Programs Administration (RSPA)
Office of Hazardous Materials Standards DHM-10
Mr. Edward Mazzullo, Director
Washington, DC

cc: Shere & Blackwell
Attorney at Law
Mr. Jeffrey Lawrence

cc: HMAC (Union-Middlesex Counties) Advisory Committee
c/o Drinker, Biddle & Reath
Mr. Joseph Schmidt

cc: Dock Resins Corporation
Mr. Joseph Barbanel, President, HMAC
Ms. Joy Romeo, Co-chair, Transportation Committee

From: Joseph Cleveland, Co-Chair Transportation Committee; President, Cleveland
Packaging Services

Date: November 13, 2001

Subject: Function-Specific Training

Mr. Mazzullo:

The Union/Middlesex County Hazardous Materials Advisory Council is a non-profit corporation dedicated to serving the emergency management, industrial and government communities in Union and Middlesex Counties. HMAC works through 7 volunteer advisory committees that execute projects, seminars and training programs in support of HMAC objectives. HMAC is entirely supported through membership fees.

An analysis of DOT HAZMAT violations for 1999 and 2000 identifies many examples of training citations:

- Failure to provide employee training
- Failure to provide employees training or create and retain records of training testing
- Failure to provide employees function - specific training
- Failure to provide recurrent function - specific and awareness training

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- Failure to provide recurrent employee training or create and retain records of training testing
- Maintained incomplete records of employee training testing - no certification that training and testing was performed, no trainee name and address; and no description, copy, or location of the training materials

The front page of the Home News Tribune, dated Sept. 26, 2001, contains an article wherein the FBI warns of more terrorist attacks and truck firms are alerted to the dangers of transporting hazardous materials.

Enclosed is a brochure about an HMA(Union/Middlesex) HAZMAT training program scheduled for Oct. 25, 2001. Your attention is directed to the agenda; especially, the NJ State Police program as it relates to safety.

Our instructors bring over 100 years of experience to this program, but we believe the program would be more effective if we could include a function-specific training effort presented in a seminar format i.e. bracing/blocking, bulk loading/unloading, documentation, regulation interpretation.

Our instructors have expressed their liability concerns as they relate to function-specific training and as a consequence our HMA efforts are restricted to general awareness safety training.

We request that the DOT supply us with a written statement that a HAZMAT employer may accept a Certificate of Attendance at a HAZMAT Function Specific Training program which is specifically applicable to the functions the employee performs, also if the said training effort does not cover all of the functions the employee performs-it shall be the responsibility of the HAZMAT employee to provide additional function specific training.

By copy of this letter to Jeff Lawrence, Attorney at Law, we request his comments regarding HMA liability exposure as it relates to a "Certificate of Attendance" and the liability of presenters who would be encouraged to demonstrate current commercial technology, but may not be HAZMAT experts.