



U.S. Department  
of Transportation

1200 New Jersey Avenue SE  
Washington, DC 20590

**Pipeline and Hazardous  
Materials Safety  
Administration**

AUG 21 2015

Mr. Clayton Droste  
Manager, Commercial Motor Vehicle Compliance  
Crop Production Services, Inc.  
3005 Rocky Mountain Ave.  
Loveland, CO 80538

Ref. No. 15-0129

Dear Mr. Droste:

This responds to your June 24, 2015 request for clarification on the emergency response information requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on whether the driver training requirements of § 177.816 require a driver to be familiar with and proficient in the use of the Emergency Response Guidebook (ERG), and based on the use of the ERG, be able to determine the appropriate course of action to take in the event of an emergency.

The HMR do not require a hazmat employee to have proficiency or familiarity with a specific source of emergency response information such as the ERG as part of safety training. Section 172.704(a)(3) requires each hazmat employee receive safety training concerning the emergency response information required by subpart G of part 172. A hazmat employer must determine the most suitable source of training for employees, based on specific job functions of each employee. Training on the ERG is only required to the extent that it satisfies the provisions of § 172.704(a)(3) and does not include proficiency in its use or the ability to determine, through its use, the appropriate course of action to take in the event of an emergency.

I trust this information is helpful. Please do not hesitate to contact us if you have any questions.

Sincerely,

Duane Pfund  
International Standards Coordinator  
Standards and Rulemaking Division

**Goodall, Shante CTR (PHMSA)**

Heary  
177.816  
Driver Training  
15-0129 0

**From:** Geller, Shelby CTR (PHMSA)  
**Sent:** Wednesday, June 24, 2015 4:21 PM  
**To:** Hazmat Interps  
**Subject:** FW: Interpretation request

Hi Shante and Alice,

Please see forwarded request for a formal letter of interpretation.

Thanks,  
Shelby

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**From:** Droste, Clay [<mailto:Clay.Droste@cpsagu.com>]  
**Sent:** Wednesday, June 24, 2015 3:30 PM  
**To:** INFOCNTR (PHMSA)  
**Cc:** Weingardt, Mike; Pirkle, Billy; Kjolhede, Justin; Stoltenberg, Jay; PHMSA HM InfoCenter  
**Subject:** Interpretation request

Greetings,

On April 30<sup>th</sup> 2015 one of our company's commercial vehicles was stopped in the State of Iowa and received a level two inspection. The vehicle was loaded with a non-placarded amount of class 9 material. The Officer wrote a violation under 177.816 with a written explanation of "Driver unfamiliar with how to use ERG manual". I used the DataQ system and challenged the violation as written with the following argument:

"After reading the regulations in 177.816 and referencing 390 through 397 in the FMCSR's, the regulations fail to state how proficient a driver must be at using the ERG guide book. Therefore, being "unfamiliar" with the book as the Officer has written is not a violation of any federal regulation. How familiar does a driver have to be with the ERG guide to pass inspection? Mr. Johnson has received and is current on all regulatory required training as required and although unfamiliar with the guide, is not in violation. I kindly ask that this violation be removed from the inspection report."

D. Evans with the IA DOT Motor Vehicle Enforcement team choose to not overturn the violation and provided the following explanation: "All of my Haz Mat Specialist ask the same thing of every driver, what ERG page would should you how to handle and emergency dealing with the product you are hauling. If a violation is written for this it's because they couldn't perform that task...".

I would argue that the Officer had the answer on the shipping paper our driver provided at the time of inspection. After the proper shipping description of all our hazardous material is the appropriate ERG guide book number. This shipping paper is no different.

Mr. Evans and his team of haz-mat specialist are applying their opinion of the regulation subjectively. I would like a proper interpretation of the regulation.

Thanks,

***Clayton Droste***  
***Crop Production Services, Inc.***  
**Manager, Commercial Motor Vehicle Compliance**  
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