



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

SEP 12 2012

Mr. Ronny A. Olson
Nuclear Training
PSEG Nuclear
P.O. Box 236
Mail Code 120
Hancocks Bridge, NJ 08038

Reference Number 12-0092

Dear Mr. Olson:

This is in response to your email requesting clarification on the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to training requirements for personnel receiving shipments of Class 7 (radioactive) materials.

In your e-mail, you state that new reactor fuel, Class 7 (radioactive) materials, is received from a vendor in Type B containers loaded aboard a truck. The truck arrives in a publicly-accessible parking lot at a power reactor site and is met there by personnel who perform surveys to determine radiation and contamination levels prior to accepting custody of the material. Other personnel inspect and sign the shipping papers, acknowledging receipt of the material. The carrier then disconnects from the trailer and the trailer is brought by a third group of personnel into a secure area that is not publicly accessible. You ask whether the personnel performing these functions are required to be trained under the HMR.

Hazardous materials (hazmat) employees must receive training and may not perform any function subject to the HMR unless instructed and tested as specified in §§ 171.702 and 172.704. Whether a person is a hazmat employee depends on their job function and how that activity relates to transportation. A hazmat employee is defined in § 171.8 as any person who, in the course of employment, directly affects hazmat transportation safety and includes loading, unloading, or handling hazmat, inspecting hazmat packaging, preparing hazmat shipments, operating vehicles used to transport hazmat, and anyone responsible for hazmat transportation safety. As such, whether a person meets this definition depends, in part, on whether their role occurs during transportation.

Under the HMR, transportation is the movement of property and begins when a carrier takes physical possession of hazmat for the purpose of transporting it and continues until the hazmat is delivered to the destination listed on the shipping document. See §§ 171.1(c) and 171.8. Transportation also includes unloading incidental to movement, which is defined as removing hazmat from the transport vehicle after it is delivered to its final destination and while carrier personnel are still present. See § 171.1(c)(3).

Your request for an interpretation suggests that the publicly-accessible lot and the secure area you reference are part of the same facility and that facility is the final destination of the shipments of Class 7 materials. As such, this response presupposes that the movement from the publicly-accessible lot to the secure area occurs on the grounds of a single facility, which is the final destination indicated on the shipping document, and that you do not forward or transport the hazmat to any other location.

Your specific questions are paraphrased and addressed below.

Q1. Do personnel who perform the surveys to determine radiation and contamination levels require 49 CFR 172 Subpart H training?

A1. Yes; these personnel are hazmat employees who must receive training. At the time these employees survey the packages, the shipment is still in transportation; this is because the hazmat has not yet been unloaded from the transport vehicle at its final destination and because the carrier personnel are still present. Because the hazmat is still in transportation and these employees are performing a hazmat transportation function (handling, inspecting, and affecting the remaining transportation of the hazmat), they are subject to the training requirements in the HMR.

Q2. Do personnel who inspect and sign the shipping papers that accompany the incoming shipment require 49 CFR 172 Subpart H training?

A2. It depends on what the inspection involves and what the signature indicates. If these employees are simply acknowledging receipt of the shipment, without making any determination or representation (by their signature) regarding the hazmat contents or the compliance of the shipment with the HMR, then they are not hazmat employees and are not subject to training requirements in the HMR. However, if these employees have any effect on hazmat transportation, such as determining the contents of the packages, assessing the compliance of the shipment with the HMR, evaluating whether to accept receipt of the shipment, or if their signature suggests any of these, then they are hazmat employees and must receive training.

Q3. Do personnel who operate the equipment that brings the trailer into the secure area require 49 CFR 172 Subpart H training?

A3. It depends on whether transportation is complete at the time these employees perform this job function. The shipment is still in transportation when it is unloaded incidental to movement. This unloading is complete and transportation has ended only once the hazmat is removed from the transport vehicle and the carrier personnel have departed. As such, if the carrier personnel disconnect the trailer and depart before these employees move the hazmat into the secure area, then they are not affecting transportation and are not subject to the training requirements. However, if the carrier personnel are still present when these employees move the hazmat, then the shipment is still in transportation and they

are handling it and affecting the remaining transportation activities and, consequently, they are hazmat employees subject to training requirements.

Q4. If the carrier brings the trailer into the secure area and detaches it there, would the personnel who perform the radiation and contamination surveys require 49 CFR 172 Subpart H training?

A4. Similarly to A3, it depends. If the carrier personnel bring the trailer into the secure area, detach it, and depart, then transportation is concluded and the personnel who subsequently survey the shipment are not hazmat employees and are not subject to the training requirements in the HMR. However, if the carrier personnel are still present while these employees survey the shipment, then unloading and transportation are not yet complete, and the employees are performing a function that affects hazmat transportation and must be trained.

Q5. If the carrier brings the trailer into the secure area and detaches it there, would the personnel who review and sign the shipping papers that accompany the incoming shipment require 49 CFR 172 Subpart H training?

A5. As with A4, it depends on whether the carrier has departed at the time these employees review and sign the shipping papers. Generally, consignee unloading operations performed after the carrier's departure from the consignee's facility are not subject to regulation under the HMR if the carrier brings the trailer into the secure area, detaches it from the motive power and removes the motive power from the premises. Thus, if the carrier has departed, these actions would not be subject to the training requirements in § 172.704. However, if the carrier has not departed (for example, if they are awaiting acknowledgement of receipt), then transportation is ongoing and A2 applies.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster", with a stylized, flowing script.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

MCIntyre
§ 172. Subpart H
Training
12-0092

Subject: FW: Request for Interpretation

From: Olson, Ronny A. [<mailto:Ronny.Olson@pseg.com>]

Sent: Monday, April 09, 2012 2:34 PM

To: Sheppard, Carla (PHMSA)

Subject: Request for Interpretation

I am writing to request clarification concerning training requirements for personnel responsible for receiving Class 7 shipments. Given the following scenario:

New reactor fuel (Class 7 material) is received from a vendor in Type B containers loaded aboard a truck. The truck arrives in a publicly-accessible parking lot at a power reactor site. It is met there by personnel who perform surveys to determine radiation and contamination levels prior to accepting custody of the material. Other personnel inspect and sign the shipping papers, acknowledging receipt of the material. The carrier then disconnects from the trailer and it is brought into a secure area that is not publicly-accessible by a third group of personnel.

1. Do the personnel who perform the surveys to determine radiation and contamination levels require 49 CFR 172 Subpart H training?
2. Do the personnel who inspect and sign the shipping papers that accompany the incoming shipment require 49 CFR 172 Subpart H training?
3. Do the personnel who operate the equipment that brings the trailer into the secure area require 49 CFR 172 Subpart H training?
4. If the carrier were to bring the trailer into the secure area and detach it there, would the personnel who perform the radiation and contamination surveys require 49 CFR 172 Subpart H training?
5. If the carrier were to bring the trailer into the secure area and detach it there, would the personnel who review and sign the shipping papers that accompany the incoming shipment require 49 CFR 172 Subpart H training?

Thank you for your assistance.

Respectfully,

Ronny A. Olson
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