



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

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

JUL 08 2009

Mr. James H. Portsmouth
Manager – Regulatory Compliance
Energy Solutions
2345 Stevens Drive Suite 240
Richland, WA 99354

Ref. No.: 09-0149

Dear Mr. Portsmouth:

This responds to your letter regarding clarification of the driver training requirements in § 177.816 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180). Specifically, you ask if the training frequency and recordkeeping requirements in § 172.704 apply to drivers trained in accordance with 49 CFR Parts 390 through 397.

The answer is yes. Pursuant to § 177.816(a), in addition to the training requirements of § 177.800, no carrier may transport, or cause to be transported, a hazardous material unless each hazmat employee who will operate a motor vehicle has been trained in the applicable requirements of Federal Motor Carrier Safety Regulations (FMCSR; 49 CFR Parts 390 through 397) and the procedures necessary for the safe operation of that motor vehicle. Further, pursuant to § 177.816(b), each person who operates a cargo tank or a vehicle loaded with a portable tank with a capacity of 1,000 gallons or more must receive training applicable to the requirements of the HMR and have the appropriate State-issued commercial driver's license required by 49 CFR Part 383. This training must conform to the requirements of § 172.704 of this subchapter with respect to frequency and recordkeeping. See § 177.816(d)).

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell".

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



Nickels
§ 177.816 (a)
§ 172.704
Training
09-0749
JHP-09-5248

June 15, 2009

Office of Hazardous Materials Standards,
Pipeline and Hazardous Materials Safety Administration
Attention: PHH-10
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001

08-0021

Subject: Frequency and Recordkeeping Requirements for Drivers to Federal Motor Carrier Safety Regulations

To Whom It May Concern:

I am requesting clarification on the subject of frequency and recordkeeping requirements to Federal Motor Carrier Safety Regulations. Code of Federal Regulations (CFR), Title 49, Part 177, Section 816(a) states drivers transporting hazardous material must be trained to the Federal Motor Carrier Safety Regulations (FMCSR). There remains to be some confusion concerning frequency and recordkeeping requirements for drivers who transport hazardous material on public highway.

Question: Is the frequency and recordkeeping requirements for drivers' training (who transport hazardous material on public highway) to 49 CFR 390 through 399 established by Hazardous Material Regulations, specifically 49 CFR 172.704?

Example:

A driver transports hazardous materials that required placards.

1. Is the driver required to be training to 49 CFR 390 through 399 within 90 days after employment or a change in job function a required by 49 CFR 172.704(c)(1)(ii)?
2. Is that driver required to be trained to 49 CFR 390 through 399 every three years as required by 49 CFR 172.704(c)(2)?
3. Are the above driver's training records required to meet recordkeeping requirements within 49 CFR 172.704(d)?

Please provide written clarification to the questions stated above. Your clarifications would be appreciated.



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JHP-09-5248

If you have any questions or concerns regarding this request, you can contact me at (509) 375-9595, or on my cell phone at (509) 420-3699.

Sincerely,

A handwritten signature in black ink that reads "James H. Portsmouth". The signature is written in a cursive, flowing style.

James H. Portsmouth, Manager
Traffic Management/Regulatory Compliance

jmt

EnergySolutions - J. A. Reeves
JHP File/LB