Hazardous Materials Bulletin

EMPLOYEE TRAINING REGULATIONS

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These requirements can be found in the Federal Hazardous Materials Regulations (FHMR), Code of Federal Regulations, Title 49, Part 172, Subpart H (§172.700-704). This section of the FHMR is often referred to as HM-126F, which was the docket number assigned to it by the U.S. Department of Transportation (USDOT) when the rule was developed. This requirement applies to intrastate and interstate transportation, and to both shippers and motor carriers.

"Hazmat employee" means a person who is employed by a hazmat employer and who in the course of employment directly affects hazardous materials transportation safety. This term includes an owner-operator of a motor vehicle which transports hazardous materials in commerce. This term includes an individual, including a self-employed individual, employed by a hazmat employer who, during the course of employment: (1) Loads, unloads, or handles hazardous materials; (2) Manufactures, tests, reconditions, repairs, modifies, marks, or otherwise represents containers, drums, or packagings as qualified for use in the transportation of hazardous materials; (3) Prepares hazardous materials for transportation; (4) Is responsible for safety of transporting hazardous materials; or (5) Operates a vehicle used to transport hazardous materials.

"Hazmat employer" means a person who uses one or more of its employees in connection with: transporting hazardous materials in commerce; causing hazardous materials to be transported or shipped in commerce; or representing, marking, certifying, selling, offering, manufacturing, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous materials. This term includes an owner-operator of a motor vehicle which transports hazardous materials in commerce. This term also includes any department, agency, or instrumentality of the United States, a State, a political subdivision of a State, or an Indian tribe engaged in an activity described in the first sentence of this definition.

The training standard requires training in the following areas: General Awareness/Familiarization; Function Specific; Safety, Modal-Specific, Security Awareness Training and in certain circumstances, In-depth Security Training.

The General Awareness/Familiarization portion requires training to provide familiarity with the FHMR, and to enable the employee to recognize and identify hazardous materials consistent with the hazard communication standards (markings, labels, placards, etc.).

<u>Function-Specific Training</u> specifies that employees must receive training concerning the regulations that are specifically applicable to the functions the employee performs. The specific training provided will vary depending on the individual's involvement in the transportation system. For example, a shipping clerk would need training in the regulations applicable to shipping papers, whereas a dock employee would need loading and unloading, outage standards and package integrity, segregation and separation training, etc.

<u>Safety Training</u> must cover the emergency response information required in Subpart G of Part 172, measures to protect the employee from the hazards associated with materials to which they may be exposed to in the workplace, and methods and procedures for avoiding accidents. One exception to this portion of the training requirement are employees who repair, modify, recondition, or test hazardous materials packagings, and who do not perform any other function subject to the regulations, do not have to receive safety training.

<u>Security Awareness Training</u> was added to the training requirement. As part of the required training a hazmat employee must receive training on recognizing and responding to possible security threats and an awareness of security risks associated with hazardous material transportation. This training must be done as part of the regular hazmat training and in no case later then March 24, 2006.

In-depth Security Training is required of hazmat employees of persons who are required to have a Security Plan in accordance with Part 172, Subpart I. This training must include company security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breech and the organizational security structure.

For highway transportation, the mode-specific requirements for highway transportation are found in §177.816. This section requires training on the Federal Motor Carrier Safety Regulations (FMCSR); the safe operation of the vehicle (backing, braking, parking, etc.); pre-trip safety inspections; use of vehicle's controls and equipment, including emergency equipment; effects of braking and curves, speed on vehicle control; hazardous weather or road conditions; operations in tunnels, bridges, and railroad crossings; vehicle attendance, parking, smoking, routing, and incident reporting; segregation of cargo; loading and unloading, load securement; and specialized training for cargo tank and portable tank operations, and other specific requirements. The CDL testing requirements may be used for compliance with this portion of the training for person with a hazardous materials or tank vehicle endorsement.

Other training standards may be substituted for portions of the USDOT training requirements, if they meet the standards outlined in Subpart H. For example, OSHA or EPA training may cover portions of the training required by USDOT, and would not have to be repeated. If the training differs in any technical areas, like definitions, then the employee must be trained in those areas. Additionally, training completed by previous employers may also be used, if documented.

The training for a hazmat employee must be completed within 90 days after employment. Employees who change hazardous materials job functions must complete training in the new job function(s) within 90 days after the change. A hazmat employee may perform new hazardous materials job functions before completing training if he does so under the supervision of a properly trained and knowledgeable hazmat employee.

Training must be done every three years, but assumed in that requirement is the fact that any time the regulations change affecting a particular job function, the employee(s) responsible for that function must be trained in the changes. The training may be done within the company or through other public or private sources.

A record of current training, inclusive of the preceding three years, must be created and retained by the employer for each hazmat employee for as long as they are employed as a hazmat employee and for 90 days thereafter. The record must include the employee's name; the most recent training completion date; a description, copy, or the location of the training materials used to meet the requirements; the name and address of the instructor(s); and a certification that the hazmat employee has been trained and tested.

There are no exceptions to the training standards for any quantities or classes of hazardous materials, unless a particular operation or material is excepted from the entire subchapter.

While the regulations provide great flexibility in the details of the training supplied (i.e., no minimum number of hours or test questions), inherent in that flexibility is a large amount of liability should a hazardous materials incident occur, especially if employee error is a causative factor. Employers are cautioned to thoroughly examine the training program their employee receives, particularly if the training is offered through an outside source.

Additionally, Section 172.606(a) requires carriers to instruct drivers to contact the carrier in the event of a hazardous materials incident.

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