



TECHNICAL BULLETIN

SUBJECT: INTERNATIONAL TRAINING REQUIREMENTS

The following letter reviews the two-year re-training requirement for international shipper.

DEPARTMENT OF TRANSPORTATION 49 CFR Part 172 [Docket HM-222B; Amdt. No. 172-149] RIN 2137-AC76]

Revision of Miscellaneous Hazardous Materials Regulations; Regulatory Review; Responses to Petitions for Reconsideration

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; Responses to petitions for reconsideration. [[Page 51237]]

Response to Air Transport Association of America and Air Line Pilots Association

September 20, 1996 Captain Larry Farris,
Chairman, Dangerous Goods Committee, Air Line Pilots Association,
Post Office Box 1189, Herndon, VA 22070
Mr. Frank J. Black, Director, Cargo Services and Secretary, Air Transport Association of
America, 1301 Pennsylvania Avenue, NW., Washington, DC 20004-1707.

Dear Messrs. Farris and Black:

The Research and Special Programs Administration (RSPA) denies your petitions for reconsideration on the provisions in RSPA's final rule in Docket HM-222B that decreased the training frequency for hazmat employees from two to three years.

The final rule in Docket HM-222B decreases the training frequency for hazmat employees from two to three years (49 CFR 172.704). See 61 FR 27166 (May 30, 1996). This change is effective October 1, 1996; however, voluntary compliance with this change, and the other amendments made under Docket HM-222B to the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180, was authorized as of May 30, 1996.

On June 21, 1996, the Air Transport Association of America (ATA) and on June 28, 1996, the Air Line Pilot's Association (ALPA) petitioned RSPA to rescind its decision to decrease the recurrent training requirements from two to three years. The ATA and ALPA requested that, for shippers of hazardous materials by air, the training frequency be increased from three years to one year. The ATA stated that: [we] feel strongly that reducing the training frequency will adversely affect safety. It is common knowledge that many unsophisticated shippers do a very poor job of training today.

The extension of time will only make it worse." The ATA went on to say that it is important that training and awareness of the HMR be properly reinforced at every opportunity. ALPA stated that it believes that RSPA has compromised public safety by extending the training cycle to three years and that it has elected wrongly to divert from the international regulations. ALPA went on to say that the transportation environment by air is different than other modes and that it is very important that those persons shipping and/or offering hazmat have knowledge and current recent awareness of potential dangers which hazardous materials may pose while being transported in this environment.

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RSPA stated in the preamble to the final rule that one of the most important regulatory requirements in the HMR is its training requirements. Proper training increases a hazmat employee's awareness of safety considerations involved in the loading, unloading, handling, storing, and transportation of hazardous materials. An effective training program reduces hazardous materials incidents resulting from human error and mitigates the effects of incidents when they occur. In the final rule, RSPA went on to say that the "importance of RSPA's training requirements is not diminished by a decrease in the frequency of training from two to three years."

We do not believe that safety has been compromised by decreasing the training frequency from two to three years. Under the training requirements in the HMR, any person who performs a function subject to the HMR may not perform that function unless trained in accordance with the requirements that apply to that function. In addition, a hazmat employer must ensure that each hazmat employee is thoroughly instructed in the requirements that apply to functions performed by that employee. If RSPA adopts a new regulation, or changes an existing regulation, that relates to a function performed by a hazmat employee, that hazmat employee must be instructed in those new or revised function-specific requirements without regard to the three year training cycle. It is not necessary to completely retrain the employee *sooner* than the required three year cycle. The only instruction required is that necessary to assure knowledge of the new or revised regulatory requirement. For example, if a new requirement is added to the shipping paper requirements, a hazmat employee must be instructed regarding the new requirement prior to preparation of a shipping paper or performance of a similar function affected by the new or revised rule. It is not necessary to test the hazmat employee or retain records of the instruction provided in the new or revised requirements until the next scheduled retraining at or within the three year cycle. Under HM-222B, RSPA revised the training rules to make it clear that RSPA does not intend that millions of detailed records be created and retained and associated testing be conducted each time a hazmat employee is instructed in regard to a change in the regulations within the three year cycle.

RSPA also does not believe that it was wrong to divert from the international regulations by decreasing the training frequency from two to three years. The decrease in training frequency for persons who offer for transportation and transport hazardous materials in domestic transportation does not in any way impede international transportation. **A person who complies with the international requirement to retrain every two years will also satisfy the domestic requirement to retrain every three years.**

The ATA and ALPA petitions exceed the scope of the Docket HM-222B rulemaking, which involved changing a two-year training cycle to a three-year training cycle. The petitions also fail to explain whether or how the proposed air transportation requirement would apply to shippers that offer for transportation by both air transportation and one or more other modes of transportation. The multi-modal impact, as well as cost/benefit ramifications, of this proposal deserves public notice and comment.

RSPA believes that there are alternatives to a regulatory requirement that will enhance the safety of hazardous material transported by air. We are distributing informational brochures to educate the flying public. We are also preparing a video to better inform shippers of the requirements for hazardous materials transported by air. Finally, we will be expanding our training efforts for shippers, carriers, and Federal enforcement personnel.

In conclusion, neither ATA nor ALPA provided any information that would warrant changing the frequency of training from three years to one year. Furthermore, you have not demonstrated that the benefits of your proposal would outweigh the costs. If you have additional information, we request that you provide it in a petition for rulemaking. Our rules on petitions for rulemaking are found in Sec. 106.31. These rules were amended in a Final Rule published on June 14, 1996 (61 FR 30175).

[[Page 51238]]

Sincerely,
Alan I. Roberts,
Associate Administrator for Hazardous Materials Safety.

Issued in Washington, DC on September 20, 1996, under the authority delegated in 49 CFR part 1.

Alan I. Roberts, Associate Administrator for Hazardous Materials Safety.

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