



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

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

DEC -6 2010

Ms. Merrie Schilperoort
Training Manager
Energy Solutions, Inc.
2345 Stevens Drive, Suite 240
Richland, WA 99354

Reference No. 10-0170

Dear Ms. Schilperoort:

This is in response to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to recordkeeping for hazardous materials (hazmat) training. Your questions have been paraphrased and answered below:

Q1. To satisfy the recordkeeping requirements for training prescribed in § 172.704(d) of the HMR, are hazmat employers required to retain the written exams of their employees who complete hazardous materials training?

A1. The answer is no. The purpose of testing is to ensure that each hazmat employee has been trained on appropriate areas of responsibility and can perform their assigned duties in compliance with the HMR. Therefore, any method of testing that achieves this purpose (e.g., written, oral, or demonstration) and any document that certifies the hazmat employee can successfully perform these tasks is acceptable (e.g., written certificate, computer electronic file, index card, written documentation of tasks performed or answers given, or notebook entry), provided it satisfies the recordkeeping requirements in § 172.704(d). Paragraph (d) of § 172.704 also requires hazmat employers to create and maintain a record that documents the current training and testing, including the previous three years, of each of their hazmat employees, and to certify that the employee has completed this training.

Q2. If a copy of the exam must be maintained, when the employee is tested using a means other than a written exam (e.g., a demonstration test, or one where the employee answers the questions orally) what must be kept as evidence of this type of exam in the training record?

A2. See Answer A1.

- Q3. Am I correct in my understanding that § 172.704(d) does not require a hazmat employee's exam and/or score be retained to comply with the HMR's recordkeeping requirements for hazardous materials training? This position is reiterated in the Pipeline and Hazardous Materials Safety Administration's guide, entitled "What You Should Know: A Guide to Developing a Hazardous Materials Training Program," where on page 5 it does not include an employee's exam or score as part of the information required to be retained as part of a hazmat employee's training record, and on page 15 where it states that "the HMR mandate the content and retention of training records; but [do] not prescribe the training record format."
- A3. Your understanding is correct. An employer is not required to retain a hazmat employee's exam or test results score to satisfy the recordkeeping requirement prescribed in § 172.704(d). The HMR require that a record of a hazmat employee's training must include the following: (1) the employee's name; (2) their most recent hazmat training completion date; (3) a description, copy, or location of the training materials used to meet the requirements prescribed in § 172.704(a); (4) the name and address of the person providing the training; and (5) certification that the employee has been trained and tested in conformance with 49 CFR Part 172, Subpart H. However, a blank or completed copy of an employee's exam may be used to satisfy the requirement to maintain a copy of the hazmat training materials prescribed in § 172.704(d)(3), and an employee's completed exam may be used as a record of his or her hazmat training.

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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



Edmonson
§172.704(d)
Training
10-0170

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June 7, 2010

Mr. Edward Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590-0001

Dear Mr. Mazzullo:

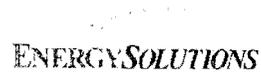
RE: TRAINING RECORDKEEPING REQUIREMENTS

EnergySolutions provides training courses and testing on hazardous material transportation to comply with US Department of Transportation, Hazardous Materials Regulations (HMR) in 49 CFR, 172 Subpart H. One of our clients was subject to a Federal Motor Carrier Safety Administration (FMCSA) compliance review which included aspects of transporting hazardous materials. The inspectors reviewed our client's hazmat employee training records and also reviewed our training materials such as lesson plans, exams, and answer keys. Our client was told by the FMCSA inspectors that a copy of the employee's exam must be furnished as evidence of completing the training. As the training provider, we do not return exams to our clients nor do we keep them. Clients are provided a written certification with the employee's name, date of training, our name and address, and a statement that they successfully completed the training and were tested as required by the HMR. We advise our clients to maintain a copy of the certification for their recordkeeping purposes.

Questions:

Are employers of hazardous material employees required to retain written exams taken by the employee to satisfy the training requirements in the HMR?

If the answer to that question is that a copy of the exam must be maintained, what is used to provide that evidence when the employee is tested using a means other than a written exam?



Mr. Edward Mazzullo
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Discussion:

In 49 CFR 172.704(d) *Recordkeeping*, a copy of the exam and/or score is not one of the required documents to be retained by the employer for the hazmat employee. In addition, the DOT, Pipeline and Hazardous Material Safety Administration issued a guide titled, "*What You Should Know: A Guide to Developing A Hazardous Materials Training Program*". This guide specifically states that tests and scores are not a mandatory part of recordkeeping the employer is required to retain.

Your prompt response is appreciated as an action is pending.

Sincerely,

Merrie Schilperoort
Training Manager
EnergySolutions, Inc.