



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

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

FEB 10 2011

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

Ref. No. 10-0122

Dear Ms. Schilperoort:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to record keeping requirements for training. Specifically, you ask whether a hazmat employer must be able to furnish on demand a copy of the test given to one of its hazmat employees used to satisfy its training responsibility under § 172.702(d). You indicate in your letter that such a requirement does not appear to be in accordance with the recordkeeping provisions for training prescribed in § 172.704(d).

The answer is no. As specified in § 172.702(d), a hazmat employer must ensure that each of its hazmat employees is tested by appropriate means on the training subjects covered in § 172.704. As specified in § 172.704(d), a record of current training, inclusive of the preceding three years, must be created and retained by a hazmat employer for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter. At a minimum, the training record must include what is specified in paragraph (d); the test taken by a hazmat employee is not one of those items required to be retained.

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

Sincerely,

A handwritten signature in black ink that reads "T. Glenn Foster". The signature is fluid and cursive.

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



Stevens
\$172,704 (d)
Training
10-0122

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June 8, 2010

FS-TN-LT-10-006

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?



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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,

A handwritten signature in cursive script that reads "Merrie Schilperoort".

Merrie Schilperoort
Hazardous Materials Transportation Training Manager
Energy Solutions