



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

1200 New Jersey Ave., S.E.
Washington, DC 20590

DEC 12 2008

Mr. Samuel S. Elkind
Corporate Regulated Goods Manager
United Parcel Service
55 Glenlake Parkway, NE
Atlanta, GA 30328-3474

Ref. No. 08-0281

Dear Mr. Elkind:

This responds to your November 14, 2008 letter requesting clarification on training requirements under §172.704(d) in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the name and address of the person performing the training may be the company or corporate name and address, based on the definition of "person" in §171.8 of the HMR.

The answer is yes. It is the opinion of this office that the term "person" under §171.8 applies to the requirement in §172.704(d)(4). Therefore, the individual name and address of the person providing training or the name and address of the company or corporation providing the training may be used to satisfy the requirement in §172.704(d)(4).

I hope this answers your inquiry.

Sincerely,

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Boothe
§ 172.704(d)(4)
Training
08-0281



55 Glenlake Parkway, NE
Atlanta, GA 30328-3474

November 14, 2008

Mr. Edward Mazullo
Director, Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE – PHH-10
Washington, DC, 20590

Re: 49 CFR 172.704(d)(4) – Recordkeeping for Training

Dear Mr. Mazullo:

A recent discussion with an Agent of the Department of Transportation has centered on whether certain hazardous materials training records prepared by United Parcel Service (UPS) are adequate when, to identify the person providing the training, the documents display the company name (i.e., UPS) and the address of the UPS office responsible for the development of the training material. It is the contention of this agent that UPS records must display the actual name and address of an individual who performed the training. Because UPS's reading of the applicable regulations leads us to a different conclusion, it seeks an interpretation from your office.

The relevant regulation that defines this part of a training record is 49 CFR 172.704(d)(4), which specifies that a training record must include the name and address of the "person" providing the training. However, 49 CFR 171.8, which provides the applicable definition of the term "person," is broader in its scope. Under this section, "person" is defined to mean not simply an individual, but also a variety of other entities, including a corporation:

Person means an individual, **corporation**, company, association, firm, partnership, society, joint stock company; or a government, Indian tribe, or authority of a government or tribe offering a hazardous material for transportation in commerce or transporting a hazardous material to support a commercial enterprise. This term does not include the United States Postal Service or, for purposes of 49 U.S.C. 5123 and 5124, a Department, agency, or instrumentality of the government. (Emphasis added.)

Accordingly, UPS views the use of its company name and the address of the office responsible for developing the training to be consistent with the requirements and terminology of the regulations. Significantly, the clear language of 49 CFR 172.704(d)(4) does not in any way qualify the term "person." There is no reference to an "individual"; nor is there any indication that the applicable definition of "person" would not apply to this particular provision. Therefore, UPS believes that users of the regulations are entitled to

Mr. Edward Mazullo

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interpret the term "person" in an individual or corporate sense, just as PHMSA and its predecessor agencies have done in their own work with respect to other provisions of the Hazardous Materials Regulations.

UPS is reluctant to change the format of its training records and to incur the programming costs necessary to modify the printouts from internal employee databases based upon the change suggested by this Agent, as UPS does not believe the Agent's position is supported by the regulations.

Your interpretation will be of great assistance. UPS looks forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel S. Elkind". The signature is fluid and cursive, with a large initial "S" and a long horizontal stroke at the end.

Samuel S. Elkind

Corporate Regulated Goods Manager