



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

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

JUN 02 2015

Ms. Cynthia Salisbury
Regulatory Affairs
Polytek Development Corp.
55 Hilton Street
Easton, PA 18042

Ref. No. 14-0138R

Dear Ms. Salisbury:

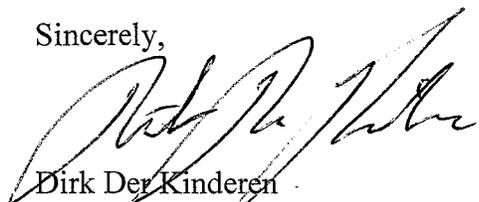
This responds to your July 16, 2014 request for clarification on emergency response information requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you state that you ship hazardous materials under generic shipping description "UN3082, Environmentally hazardous substance, liquid, n.o.s. (butyl benzyl phthalate), 9, III," and include the Emergency Response Guidebook (ERG) #171 as part of the description; and you verify that the carrier has the ERG in the cab of the truck. You ask if this complies with the § 172.602(b) emergency response information requirements. You also inquire whether the most current edition of the ERG must be carried.

The combination of providing an ERG guide number with a hazardous material description and verifying carriage of an ERG in the carrier's vehicle(s) satisfies the HMR requirements (see § 172.602(b)(3)(iii)). Additionally, the most up-to-date emergency response information should be used to satisfy the Part 172, Subpart G requirements. Thus, the edition of the ERG used to satisfy the emergency response information requirements for your shipment should contain guidance that is most relevant to current emergency response practices.

Section 172.602(a)(1) states that the emergency response information must contain the basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k). Section 172.602(b)(3) requires that the emergency response information is presented (i) on a shipping paper; (ii) in a document, other than a shipping paper, that includes both the basic description and technical name of the hazardous material; or (iii) related to the information on a shipping paper, in a separate document (e.g., an emergency response guidance document), in a manner that cross-references the description of the hazardous material on the shipping paper with the emergency response information contained in the document. Thus, your method satisfies the third option for presenting emergency response information.

I hope this answers your inquiry. If you need additional assistance, please contact this Office at (202) 366-8553.

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with the first name "Dirk" being the most prominent.

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Boothe
172.602 (b)
Emergency Response
14-0138 J

Dodd, Alice (PHMSA)

From: Ciccarone, Michael CTR (PHMSA)
Sent: Wednesday, July 16, 2014 12:32 PM
To: Hazmat Interps
Subject: FW: Request for Letter of Interpretation Regarding Emergency Response Information

Shante and Alice,

Please submit this for a formal letter of interpretation. Ms. Salisbury discussed this issue with Adam Lucas in the HMIC.

Thanks,

Mike

From: Cynthia Salisbury [<mailto:csalisbury@polytek.com>]
Sent: Wednesday, July 16, 2014 12:17 PM
To: INFOCNTR (PHMSA)
Subject: Request for Letter of Interpretation Regarding Emergency Response Information

To Whom It May Concern:

I am writing to clarify Emergency Response Information (172.602(b)) requirements for hazardous materials covered by a shipping name with a G in column 1 of the 172.101 (e.g., n.o.s. or other generic shipping names). As you know, for these materials, a technical name be included with the basic shipping description (49 CFR 172.203(k)). For these hazardous materials, do we fulfill the requirement for Emergency Response Information by including the proper Emergency Response Guidebook (ERG) Guide Number on the shipping paper AND verifying that the carrier has the ERG readily available in the cab of the truck?

For example, if shipping paper includes the following information: UN3082, Environmentally hazardous substance, liquid, n.o.s. (butyl benzyl phthalate), 9, III, ERG #171; AND we verify that the carrier has the ERG in the cab, does that fulfill 172.602(b)?

Does it matter if the ERG in the cab is not the most current edition (e.g., 2008)?

Thank you in advance for clarification.

Best Regards,

Cynthia Salisbury

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OCT 29 2014

Ms. Cynthia Salisbury
Regulatory Affairs
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55 Hilton Street
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Ref. No. 14-0138

Dear Ms. Salisbury:

This responds to your July 16, 2014 request for clarification on emergency response information requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you state that you ship hazardous materials under generic shipping description "UN3082, Environmentally hazardous substance, liquid, n.o.s. (butyl benzyl phthalate), 9, III," and include the Emergency Response Guidebook (ERG) #171 as part of the description; and you verify that the carrier has the ERG in the cab of the truck. You ask if this complies with the § 172.602(b) emergency response information requirements. You also inquire whether the most current edition of the ERG must be carried.

The combination of providing an ERG guide number with a hazardous material description and verifying carriage of an ERG in the carrier's vehicle(s) satisfies the HMR requirements (see § 172.602(b)(3)(iii)). Additionally, the most current edition is required as it includes the most current response information.

Section 172.602(a)(1) states that the emergency response information must contain the basic description and technical name of the hazardous material as required by §§ 172.202 and 172.203(k). Section 172.602(b)(3) requires that the emergency response information is presented (i) on a shipping paper; (ii) in a document, other than a shipping paper, that includes both the basic description and technical name of the hazardous material; or (iii) related to the information on a shipping paper, in a separate document (e.g., an emergency response guidance document), in a manner that cross-references the description of the hazardous material on the shipping paper with the emergency response information contained in the document. Thus, your method satisfies the third option for presenting emergency response information.

I hope this answers your inquiry. If you need additional assistance, please contact this Office at (202) 366-8553.

Sincerely,

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Boothe, Deborah (PHMSA)

From: DerKinderen, Dirk (PHMSA)
Sent: Tuesday, December 23, 2014 10:02 AM
To: Boothe, Deborah (PHMSA)
Subject: FW: Interp #14-0138
Attachments: 140138 ERI requirements.pdf

Debbie,

Even though we got FMCSA sign-off, Paul is worried about the letter especially that carriers may be sited for not carrying the most current version of the ERG even if the language from an older version satisfies the ERI requirements of the HMR. He's also worried about the cost of purchasing new editions. We need to discuss this internally and may need to massage the language and reissue the letter.

Sincerely,

Dirk Der Kinderen

From: Benedict, Robert (PHMSA)
Sent: Tuesday, December 23, 2014 9:01 AM
To: DerKinderen, Dirk (PHMSA)
Subject: FW: Interp #14-0138

FYI.

From: Bomgardner, Paul (FMCSA)
Sent: Tuesday, December 23, 2014 9:00 AM
To: Benedict, Robert (PHMSA)
Cc: Ford, David (FMCSA)
Subject: FW: Interp #14-0138

Hi Rob:

Please see the interpretation attached. Both Dave and I believe that the statement about the carrier having to have the latest edition of the ERG is in error. Historically, all that was needed was a version that had the information required for the load. Take gasoline or acetone, for example. Response to incidents involving those materials really hasn't changed in ages. So, why would there be a need for the latest version? Also, I see a bit of a problem in that the interpretation is pretty close to rulemaking by requiring the newest version, which comes at a hefty cost to industry.

Anyway, might I suggest that the sentence be revised to read that the version of the ERG used must contain the information that adequately covers the HM being transported. That is what the rule requires.

Regards,
Paul

From: Ford, David (FMCSA)
Sent: Tuesday, December 23, 2014 8:50 AM
To: Bomgardner, Paul (FMCSA)
Subject: Interp #14-0138

Paul,

This interp states that you must have the most current ERG in the vehicle. I believe that is incorrect. That is not specifically stated in the regulations, and previous interpretations have said that as long as the response information is accurate, an older ERG may be used. Can you ask PHMSA to take a second look at this?

Thanks

David W. Ford
Hazardous Materials Program Manager
USDOT/FMCSA/Southern Service Center
404-327-7374
david.ford@dot.gov