



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

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

MAR 30 2010

Mr. Ben Barrett  
DG Advisor, LLC  
1924 East Blue Ridge Blvd.  
Kansas City, MO 64146

Reference No. 10-0029

Dear Mr. Barrett:

This is in response to your e-mail and telephone conversation with a member of my staff regarding the HM-206F final rule, "Revision of Requirements for Emergency Response Telephone Numbers" published on October 19, 2009 in the *Federal Register* [74 FR 53413]. (A correction to the final rule's effective date was published on October 22, 2010 [74 FR 54489].) Specifically, you ask us to clarify the exception to the requirement for the name of the person registered with the emergency response information (ERI) provider to be entered in association with (immediately before, after, above or below) the emergency response telephone number on shipping papers.

The HM-206F final rule requires a shipping paper to identify the offeror of the shipment when an ERI provider is used to comply with the requirements of § 172.604. The final rule provides an exception in § 172.604(b)(1) to this requirement. The name of the person registered with the ERI provider is not required to be entered on the shipping paper in association with the ER telephone number if the name of the person is entered elsewhere on the shipping paper in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found. Therefore, provided the registrant's name is already entered elsewhere in this manner, there is no requirement to add the name twice. We will revise the regulatory text to clarify this issue in a future rulemaking.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

McIntyre  
§ 172.604  
§ 172.201  
Shipping Papers / Emergency  
Response Number  
10-0029

-----Original Message-----

From: Ben Barrett [mailto:ben.barrett@dgadvisor.com]  
Sent: Tuesday, January 26, 2010 8:06 PM  
To: McIntyre, Joan (PHMSA)  
Subject: RE: ER Phone # Rule

Dear Joan,

Thanks for your help today!!

I understand and sympathize with PHMSA's intent to clarify the identity of the subscriber to a ER phone number service when the shipper is not the subscriber. However my interpretation of the actual implementation is that everyone has to put their name next to the phone number, requiring most shipping papers to be changed.

**Attached is a mark-up of the revised regulation in 172.604.** Two scenarios exist; in paragraph (b)(1) the shipper maintains the phone number themselves, and in (b)(2) they hire a service. In (b)(1) their name can be anywhere on the shipping paper, but in (b)(2) it has to be immediately next to the phone number.

From our conversation this is not PHMSA's intent. If I'm making a mistake I would appreciate an explanation, or if I'm correct please send me an interpretation and consider this for inclusion in a correction rulemaking.

Thanks,

Ben

Regards,

Ben Barrett

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-----Original Message-----

From: ben.barrett@dgadvisor.com [mailto:ben.barrett@dgadvisor.com]  
Sent: Tuesday, January 26, 2010 3:05 PM  
To: McIntyre, Joan (PHMSA)  
Subject: ER Phone # Rule

Dear Joan,

I understand and agree with the intent of the changes to 172.604 in the final rule dated October 21, 2009. As I read the rule, my concern is that there may be unintended consequences. I would think that the majority of hazmat shipments:

- 1) are not intermodal
- 2) use an ER phone number service like CHEMTREC
- 3) The shipper is or should be the subscriber
- 4) the name of the subscriber appears on the shipping paper but not adjacent to the ER phone number.

Am I correct to interpret the new regulation that all these shippers have to change their shipping papers to make their name now appear twice, consignee and subscriber? There is a clause which allows different placement when the shipper uses their own phone number, allowing no change - should this not also except shippers who are the subscriber?

Otherwise almost all shippers will be affected and incur expense by a rule intended to correct a minority of shipments.

Thanks,

Ben Barrett

DG Advisor, LLC

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Sent from my Verizon Wireless BlackBerry