



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

**MAY 17 2018**

Ms. Lara Currie  
Administrator  
The Council on Safe Transportation of Hazardous Articles (COSTHA)  
10 Hunter Brook Lane  
Queensbury, NY 12804

Reference No. 17-0118

Dear Ms. Currie:

This letter is in response to your October 25, 2017, e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transport of engines and machinery. You note that in a recent rulemaking PHMSA harmonized the HMR proper shipping names utilized for the transportation of engines and machinery containing engines with those in the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations (UN Model Regulations). Additionally, you note that no corresponding amendment was made to the exception from the emergency response requirements found in § 172.604(d)(2) to list the new engine and machinery proper shipping names. Specifically, you request confirmation of your understanding that the entry for engines, internal combustion in § 172.604(d)(2) covers the three new engine or machinery proper shipping names (UN 3528, UN3529, or UN 3530), and that all listed engine proper shipping names are not subject to the emergency response telephone number requirements in § 172.604.

On March 30, 2017, PHMSA published a final rule under Docket Number PHMSA-2015-0273 (HM-215N) [82 FR 15796] to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. The HM-215N rulemaking harmonized the HMT proper shipping names utilized for the transportation of engines and machinery containing engines with those in the UN Model Regulations. However, PHMSA did not amend § 172.604(d)(2) to ensure that engines, internal combustion offered under any of the new proper shipping names would continue to receive an exception from the emergency response telephone number requirements of § 172.604.

The emergency response telephone number requirements of § 172.604 do not apply to any materials properly described using proper shipping names listed for any of the three new engine or machinery proper shipping names (UN 3528, UN3529, or UN 3530), and it is our intent that individuals offering these materials continue to receive the exception provided in § 172.604(d)(2). We realize that there may be some ambiguity in the regulatory language prescribed in this paragraph and intend to clarify its intent in a future rulemaking.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Duane A. Pfund". The signature is written in a cursive style with a large, looped initial "D".

Duane A. Pfund  
International Standards Coordinator  
Standards and Rulemaking Division

Webb  
§ 172.604  
Emergency Response  
17-0118

**Dodd, Alice (PHMSA)**

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**From:** Webb, Steven (PHMSA)  
**Sent:** Friday, October 27, 2017 11:31 AM  
**To:** Dodd, Alice (PHMSA)  
**Subject:** FW: Engines, Internal Combustion and 172.604

Can you log this email in as an interp request and assign it to me. I already have a draft response, but need an interp number/folder.

Thanks

Steve

**From:** Tom Ferguson [mailto:Tom@costha.com]  
**Sent:** Friday, October 20, 2017 12:39 PM  
**To:** Webb, Steven (PHMSA) <steven.webb@dot.gov>  
**Cc:** Stevenson, Tonya (PHMSA) <tonya.stevenson@dot.gov>; lara costha.com <lara@costha.com>; Chris Yakush <Chris@costha.com>  
**Subject:** Engines, Internal Combustion and 172.604

Steven,

Hope this email finds you well! I have a quick question about PHMSA's intention on the new engine entries. I don't need a formal letter of interpretation at this point and if this leads to a need to clarify in the HMR, we can submit a petition. All I am interested in is whether you think clarification needs to be requested.

In HM-215N, PHMSA adopted the new entries for Engines, Internal Combustion. They include:

- Engines, Internal Combustion, flammable liquid powered (UN3528);
- Engines, Internal Combustion, flammable gas powered (UN3529);

And, of course, already present but still valid is:

- Engines, internal combustion (now UN3530)

In looking at HM-215N, there is no discussion on requiring the emergency response telephone number for UN3528 or UN3529. Currently, in § 172.604(d)(2), vehicles flammable liquid and gas powered are excepted from the number requirement as are engines, internal combustion. But because this section includes reference to both the vehicle entries (Vehicle, flammable gas powered, and Vehicle, flammable liquid powered), it begs the question whether something is different for Engines, Internal Combustion since only the full proper shipping name for UN3530 is listed.

We believe that this is simply a result of how § 172.604(d)(2) is written. We believe PHMSA did not intend to require the ER number for UN3528 or UN3529, and did not modify § 172.604(d)(2) because the entry Engines, Internal Combustion covers all three Engine entries (UN3528, UN3529, and UN3530).

So my direct question is do you agree? Or do you believe this requires additional review and discussion. If the former, we can answer our member's question quickly. If the latter, or even if you believe the former but think it could be clearer, we will submit a request for a letter of interpretation or a petition to clarify the point.

Please feel free to give me a call if you'd like to discuss.

Thanks and have a great weekend!

*Tom Ferguson, PG, CHMM, DGSA*

Senior Technical Consultant

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**COSTHA 2018 Annual Forum & Expo ~ April 22-25 ~ Weston, FL**

*This information is intended to provide interpretative and authoritative information in regard to the subject matter covered as a service to our members and has been answered to the best of our ability based on the information provided to us. We do not guarantee the accuracy or completeness of any such interpretation or information, however, nor do we warrant that compliance with any advice we provide will guarantee compliance with any legal or regulatory requirements. Our statements or opinions do not convey legal interpretation and government authorities or legal counsel should be contacted for such a response.*