



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUL 10 2013

Mr. Bob Duncan
Kriska Transportation
300 Churchill Road
P.O. Box 879
Prescott, Canada

Ref. No. 13-0081

Dear Mr. Duncan:

This responds to your April 12, 2013 request for clarification on the emergency response information requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on who is responsible for supplying the emergency response information (ERI) and the permitted methods to comply with §§ 172.600 and 172.602. Your questions are answered as follows:

Q1. It is your understanding that it is the shipper's responsibility to supply a Material Safety Data Sheet (MSDS) that includes the emergency response information for the materials shipped attached to the shipping paper. Is this understanding correct?

A1. Section 172.600(b) requires persons who offer for transportation, accept for transportation, transfer or otherwise handle hazardous materials during transportation to provide emergency response information including an emergency response telephone number. Therefore, the responsibility to provide emergency response information is not solely the offeror. This responsibility is shared by those who offer, accept, transfer or otherwise handle hazardous materials during transportation and must be completed prior to offering hazardous materials into transportation. An MSDS that includes the emergency response information, although not required, is one form of information that may be used to satisfy the emergency response information requirements.

Q2. It is your understanding that if the shipper does not supply an MSDS with the emergency response information for the materials shipped attached to the shipping paper then a copy of the ERG must be supplied. Is this understanding correct?

A2. Section 172.602(a)(1) requires that the emergency response information to 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

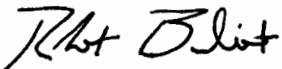
paper, that includes both the basic description and technical name of the hazardous material (e.g. material safety data sheet); or (iii) related to the information on a shipping paper, in a separate document (e.g., an emergency response guidance document such as the ERG), in a manner that cross references the description of the hazardous material on the shipping paper with the emergency response information contained in the document. If a guide number page from the ERG is used, it must include the basic description and, if applicable, the technical name of the hazardous material. However, if the entire ERG is present on the transport vehicle, the requirements of § 172.602 are satisfied.

Q3. It is your understanding that effective January 1, 2013 if no MSDS with the emergency response information for the materials shipped is attached to it is supplied with the shipping paper, then a photocopy of the ERG must be placed on top of the shipping paper and placing the shipping paper into the appropriate page of the ERG is no longer acceptable. Is this understanding correct?

A3. For your information, PHMSA has not published any final rules on emergency response information requirements effective January 1, 2013. However, the most recent rulemaking on emergency response information and communication, was a final rule published on October 19, 2009, entitled "Revision of Requirements for Emergency Response Telephone Numbers" (74 FR 53413). The effective date of this final rule was October 1, 2010 (74 FR 54489). With regard to the permitted manner to communicate emergency response information see A2.

I hope this answers your inquiry. If you need additional assistance, please call this office on (202) 366-8553.

Sincerely,



Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Boothe
§172.201(d)
Shipping Papers

From: INFOCNTR (PHMSA)
Sent: Friday, April 12, 2013 5:08 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Feedback: General Questions/Comments Regarding the PHMSA Enforcement Program

13-0081

Hi Carolyn,

This caller requested we submit his e-mail as a formal letter of interpretation.

Thanks,
Victoria

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

From: PHMSA Webmaster
Sent: Friday, April 12, 2013 1:49 PM
To: HM-Enforcement (PHMSA); PHMSA Webmaster
Subject: Feedback: General Questions/Comments Regarding the PHMSA Enforcement Program

U.S. Department of Transportation
Hazmat Specialist

Dear Adam:

Back in mid February 2013, I reached out to you regarding the responsibility of supplying the Emergency Response Information for the shipping papers. At that time you had supplied me with a letter dated October 17, 1996, your reference number 96-1039. Although this does explain that providing the emergency response paperwork it is the responsibility of the shipper, we have one particular US based company that refuses to comply stating that letter is 7years old and the regulations have changed since then.

They're a large Hazmat manufacturer and have informed us that we are the only company that is requesting the information and their experts inform them that they are compliant.

Because they refuse to supply the documents and our drivers are not permitted to use the photocopier, they are forced to drive bobtail (without the trailer) 20 miles to a truck stop so we can obtain the proper ERG documents.

We were surprised to hear that we are the only company asking for this information to be supplied especially considering that it is a U.S. regulation and we're a Canada based carrier. We have tried, sent them a copy of your letter as well as information regarding the regulation its self yet they refuse to adhere to the regulations. They continue to state that it is not their responsibility, it's the carrier's.

This is the Response we received from the customer:

" _____ meets the requirements by providing the shipping papers with UN numbers listed and requiring that the driver has a copy of the Emergency Response Guide in the vehicle. The UN number is referenced in the ERG and provides the required information for emergency response.

I would offer a suggestion, in line with what I understand our policy has been, the driver must have a copy of the ERG book in his vehicle so that he has the information available. This avoids multiple duplication of the pages for each shipment. Due the high volume of different products that _____ ships, this is the only means that _____ can support at this time. ""

As we understand the new rule which came into effect January 1, 2013, if no MSDS sheet is supplied with an ERG attached. Then a photo copy must be made and placed on top of the Bill of Lading and that tabbing the BOL into the ERG section of the Hazmat book was no longer acceptable.

Could you please supply us with a written response to this letter that explains that it is the shipper responsibility to supply a MSDS sheet that includes the Emergence Response document attached to the shipping papers for the UN numbers being shipped, or if no MSDS supplied with the ER attached that a copy of the ERG must be supplied?

This will help us with the compliance of the shipment and speed up the process for us. We feel that we are losing a battle that should be straight forward and very surprised that a large company is not on top of this issue.

Thank you in advance for your help.

Regards
Bob Duncan
Driver Training Coordinator
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