



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUL 31 2013

Bob Duncan
Driver training Coordinator
Kriska Transportation
300 Churchill Road
K0E 1T0 Prescott, Ontario
Canada

Ref. No. 13-0106

Dear Mr. Duncan:

This responds to your letter dated May 15, 2013, requesting clarification concerning the responsibility for providing emergency response information, as specified in § 172.602 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you state that you are a Canadian motor carrier and ask who is ultimately responsible for ensuring that emergency response information is present on the transport vehicle. Additionally, you ask if the basic description of the hazardous material, including the technical name, is required on a separate guide page or if a "North American Emergency Response Guide (NAERG) Page No." indication on the shipping paper would satisfy the emergency response information requirements.

A shipper or an agent performing functions of a shipper is responsible for ensuring that an emergency response information document is provided to the carrier. Each carrier is responsible for maintaining the emergency response information document, as required. A carrier may elect to place a document, such as the 2012 NAERG, in its transport vehicle to satisfy the emergency response information requirements.

In addition, if a separate document, such as a guide page from the 2012 NAERG is used, it must include the basic description of the hazardous material and, if applicable, the technical name, such as when generic or n.o.s. descriptions are used. A "Guide Page No." is not required on a shipping paper, and, although not prohibited, would not singularly satisfy the emergency response information requirements prescribed in § 172.602.

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

Sincerely,

for T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division



300 Churchill Road, Prescott, Ontario, K0E 1T0
6424B Danville Road, Mississauga, Ontario, L5T 2S6
Phone: 613 925 5903 - Fax: 613 925 1246
Toll Free: 800 461 8000

Stevens
§ 172.201 (4)(d)
§ 172.602
Shipping Papers
13-0106

Attention: Adam
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 7 years 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
Kriska Transportation
rduncan@kriska.com
1 (800) 461-8000 ext 2386

Drakeford, Carolyn (PHMSA)

From: O'Donnell, Lisa (PHMSA)
Sent: Wednesday, May 15, 2013 3:36 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Letter to PHMSA
Attachments: Letter to PHMSA ERG Final.docx

Carolyn,

Please assign this letter. Thanks!

Lisa

From: Clemente, Richard (FMCSA)
Sent: Wednesday, May 15, 2013 10:45 AM
To: O'Donnell, Lisa (PHMSA)
Subject: FW: Letter to PHMSA

Lisa – I just received this email from Dave Heller at TCA... can you shed any light on this, or who Dave needs to contact directly at PHMSA. Thanks for your help on this.

Rich

From: David Heller [<mailto:DHeller@truckload.org>]
Sent: Wednesday, May 15, 2013 10:37 AM
To: Clemente, Richard (FMCSA)
Subject: FW: Letter to PHMSA

Does this make any sense to you? See below and attached...

David Heller, CDS
Director of Safety and Policy
Truckload Carriers Association
555 E. Braddock Road
Alexandria, VA 22314
703-838-1950
703-836-6610 (Fax)
dheller@truckload.org

From: Glen Perkins [<mailto:gperkins@kriska.com>]
Sent: Wednesday, May 15, 2013 10:06 AM
To: David Heller
Subject: FW: Letter to PHMSA

Good morning David

I was wondering if you could assist with an issue we are currently having with a Hazmat Customer we work for, the attached letter explains the issue.

We have been attempting to get an answer from the US Department of Trans, the Gentleman who we sent this letter to told us it may take 6 to 8 weeks to get a response.

Would you have information or a contact that could clarify the responsibility of the shipper or Carrier if we are incorrect in our interpretation of the rules?

We would appreciate your assistance.

Regards

Glen Perkins
Director, Safety & Compliance
Kriska Holdings Limited

From: Robert Duncan
Sent: Wednesday, May 15, 2013 9:39 AM
To: Glen Perkins
Subject: Letter to PHMSA

This is the letter about the ERG.

Bob Duncan
Driver Trainer Coordinator
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www.kriska.com