



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

APR - 5 2001

400 Seventh St., S.W.
Washington, D.C. 20590

Mr. Andrew C. Rymer
Transportation Consulting Services
Post Office Box 592
Fulton, MD 20759

Ref. No: 00-0280

Dear Mr. Rymer:

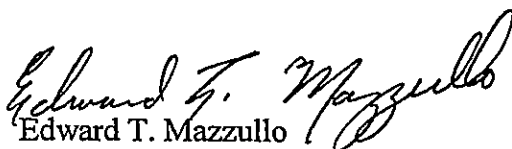
This responds to your letter requesting clarification on the term "immediate access" as used in § 172.604 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

As provided by § 172.604 a person who offers a hazardous material for transportation must provide an emergency response telephone number. It must be the number of a person who is either knowledgeable of the hazardous material being shipped and has comprehensive emergency response and incident mitigation information for that material, or has immediate access to a person who possesses such knowledge and information. You are correct that the term "immediate access" is not defined in the HMR. However, the term is intended to indicate that the emergency response information must be provided to a responder with no undue delay. Clearly, a few minutes may lapse during a telephone call while the person answering the emergency response phone number locates specific information on a particular product or contacts a person to provide such information. However, any delay longer than a few minutes would be unacceptable, as would any delay involving call-back, such as would be necessary if the person answering the emergency response telephone number had to use a pager to contact someone with the specific knowledge about the product in question.

We are aware of the Nuclear Regulatory Commission's (NRC) Information Notice 92-62 that was issued to increase awareness that licensees must be prepared to respond promptly with the information needed, when called. The NRC provided its opinion that emergency responders would want or expect that this information be provided within 15 minutes. It is our opinion that an emergency responder would want the information as quickly as possible and that, in many if not most hazardous materials transportation response situations, a delay of 15 minutes would be unacceptable.

I hope this information is helpful.

Sincerely,


Edward T. Mazzullo

Director, Office of Hazardous
Materials Standards

ANDREW C. RYMER

Transportation Consulting Services

Engram
→ 172.604
Emergency
Response
00-0280

September 28, 2000

Mr. Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards
Research and special Programs Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Billings:

This is to request clarification from the Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Standards, regarding the time frame within which the comprehensive emergency response and incident mitigation information specified in 49 CFR 172.604(a) must be provided. Neither the text in Section 172.604 nor the clarification letters which have been issued by your office address what is a reasonable time within which this information must be provided. Other than the typical "he said/she said/they said" type references, the only written guidance which has been found to date is NRC Information Notice 92-62, issued August 24, 1992, which indicates that emergency responders would expect the required information to be provided within 15 minutes.

My clients have put the systems in place to be capable of providing all of the elements specified in your office's interpretive letters addressing what constitutes comprehensive emergency response and incident mitigation information. However, each time these entities conduct an exercise to verify the capability to provide the required information and demonstrate the ability to achieve regulatory compliance, the question always arises as to what is the time frame within which this information must be provided.

Clarification regarding the time period within which the information must be provided would allow entities subject to this requirement to establish an objective performance standard for their regulatory compliance program and would eliminate subjectivity in compliance assessments.

Your clarification regarding the reasonable time frame within which comprehensive emergency response and incident mitigation information must be provided is appreciated.

Sincerely,


Andrew C. Rymer