



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

Memorandum

Date **AUG 30 2001**

Reply to Attn. of:

Reference No.: 01-0176

Subject: INFORMATION: Request for Interpretation of 49 CFR 172.604

From: *for Thomas G. Allison*
Edward T. Mazzullo, Director
Office of Hazardous Materials Standards, DHM-10

To: William Quade
Chief, Hazardous Materials Division
FMCSA

This is in response to your request for clarification of § 172.604. Your questions are paraphrased and answered as follows:

- Q1 . What is the maximum allowable elapsed time from the time an emergency response call is placed, until the caller receives the required information?
- A1. Section 172.604(a) requires that the emergency response telephone number 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. 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 without undue delay. Clearly, a few minutes may elapse during a telephone call while the person answering the emergency response telephone number locates specific information on a particular product or contacts a person with that information. However, any delay longer than a few minutes would be unacceptable.
- Q2. May the caller be referred to another telephone number?
- A2. The answer is no. Providing another telephone number, without providing the required response information or connecting the emergency responder to a knowledgeable person, does not fulfill the requirements in § 172.604.

Q3. The emergency responder is told that someone will call them back in ten minutes. Is that acceptable?

A3. The answer is no. "Call backs," regardless of time parameters, are unacceptable and do not satisfy the requirements in § 172.604.

Q4. Is there a maximum time that the caller should wait for the call to be answered, i.e., a maximum number of rings?

A4. The answer is no.

Q5. Is it acceptable for the person answering the emergency response telephone number to read verbatim from the Emergency Response Guidebook (ERG)?

A5. Merely reading the information from the ERG does not meet the requirements in § 172.604(a). The person answering the emergency response telephone number should have knowledge beyond the information contained in the ERG; that person should be knowledgeable of the hazards and characteristics associated with the hazardous material, be familiar with the terminology and subject matter, and be able to provide comprehensive emergency response and accident mitigation information for the material involved.

Q6. Is it acceptable for the person answering the phone to ask for a brand/common name because that person cannot respond to the proper shipping name.

A6. As some products contain widely varying concentrations of a hazardous material, the person answering the emergency response telephone number may ask for a trade name in order to provide the most appropriate information. Because the emergency responder placing the call may not have access to that information, the person answering the emergency response telephone number must be able to provide emergency response information based on the basic description on the shipping paper.

#

Gale, John

From: Mazzullo, Ed
Sent: Thursday, July 12, 2001 9:02 AM
To: Gale, John
Subject: FW: 172.604 interpretation request

Corbin
§ 172.604
Emergency Response
(Telephone Number)
01-0176



ENCLOSURE



A clarification is
needed.doc

Please assign for handling.

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

From: Quade, William <FHWA> [mailto:William.Quade@fhwa.dot.gov]
Sent: Thursday, July 12, 2001 7:11 AM
To: Mazzullo, Ed <RSPA>
Cc: Cicero, Anthony <FHWA>; Eno, Andrew <FHWA>; Byrd, Bill <FHWA>;
Shelton, Daniel <FHWA>
Subject: Fwd: 172.604 interpretation request

Ed,

Attached is a request for interpretation from the field staff. I think they raise some very good questions. Answers are needed to facilitate enforcement of this regulations. As I believe there is some enforcement pending, I would appreciate it if we could give this matter some priority.

Thanks,
BQ

A interpretation is needed: What is an acceptable response for an emergency response call? While regulation, 172.604 appears simple and easy to understand, there doesn't seem to be agreement on what is considered in compliance. Some of the questions or situations that have occurred in the field are:

1) What would be the allowable maximum amount of elapsed time from the time the caller first calls until an acceptable response is obtained?

Comments: This should include situations such as the caller being transferred, put on hold, or waiting for someone to find the needed information.

2) Is it acceptable if the caller is told to call another number? Would the time required to complete the second call be included in an allowable maximum amount of elapsed time?

3) Is it acceptable if the responder says they will call back in ten minutes?

4) What would be the allowable maximum amount of time the caller should wait for a call to be answered? Should a maximum number of rings be set?

5) Is it acceptable if the responder reads verbatim from the Emergency Response Guide?

6) Is it acceptable if the responder cannot respond to the proper shipping name?

Comments: We have had responders ask for brand names. We would suggest that responders be required to respond to the proper shipping name or identification numbers as this is the information available to emergency response personnel.

(2) Election of Committee Chairman & Vice Chairman

(3) Remarks by RADM P. Pluta, Committee Sponsor.

(4) Approval of the April 26, 2000 minutes.

(5) Old Business: VTS Update and PORTS Update reports.

(6) New Business:

(7) Next meeting.

(8) Adjournment.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Committee Administrator no later than September 25, 2000. Written material for distribution at the meeting should reach the Coast Guard no later than September 25, 2000. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 28 copies to the Committee Administrator at the location indicated under Addresses no later than September 25, 2000.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the Committee Administrator at the location indicated under Addresses as soon as possible.

Dated: August 18, 2000.

K.J. Eldridge,

Captain, U.S. Coast Guard, Acting Commander, Eighth Coast Guard District.

[FR Doc. 00-22977 Filed 9-6-00; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD-2000-7841]

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Extension of comment period.

SUMMARY: The Maritime Administration (MARAD) is hereby giving notice that the closing date for comments in Docket No. MARAD-2000-7841, application of Marine Transport Corporation for written permission for temporary transfer to the coastwise trade of the integrated tug barge *SMT Chemical Trader*, has been extended to close of

business (5:00 p.m. edt) September 15, 2000. The notice of application in Docket No. MARAD-2000-7841 was published in the Federal Register of August 28, 2000 (65 FR 52157-52158).

(Catalog of Federal Domestic Assistance Program)

By Order of the Maritime Administrator.

Dated: September 1, 2000.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00-23034 Filed 9-6-00; 8:45 am]

BILLING CODE 4910-31-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket 98-4957 Notice 22]

Extension of Existing Information Collection: Comment Request

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice and request for public comments.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process for extension of an existing RSPA collection of information. RSPA intends to request OMB approval of information collection 2137-0596, National Pipeline Mapping System (NPMS) under the Paperwork Reduction Act of 1995 and 5 CFR Part 1320.

DATES: Comments on this notice must be received on or before November 6, 2000 to be assured of consideration.

ADDRESSES: Interested persons are invited to send comments in duplicate to the Dockets Facility, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590-0001 or e-mail to <http://dms.dot.gov>. Please identify the docket and notice numbers shown in the heading of this notice.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366-6205, to ask questions about this notice, or write by e-mail to marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Title: National Pipeline Mapping System.

Type of Request: Extension of existing information collection.

Abstract: RSPA's Office of Pipeline Safety (OPS), along with state agencies, have been working with natural gas and hazardous liquid pipeline operators to develop NPMS. When complete, NPMS will depict and provide data on all natural gas transmission and hazardous liquid pipeline systems operating in the

United States. OPS is extending its volunteer pilot program to all regulated transmission operators. OPS will be compensating the states and regional repositories for their startup and operating costs.

Estimate of Burden: 20 hours per operator.

Respondents: Gas transmission and hazardous liquid operators.

Estimated Number of Respondents: 1350.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 27,000 hours.

This document can be reviewed between 10 a.m.-5 p.m. Monday through Friday, except Federal holidays, at the Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh St., SW., Washington, DC 20590.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

All timely written comments to this notice will be summarized and included in the request for OMB approval. Comments will be available to the public in the docket.

Issued in Washington, DC on August 31, 2000.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 00-22848 Filed 9-6-00; 8:45 am]

BILLING CODE 4910-50-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA-00-7283; Notice No. 00-10]

Advisory Notice; Transportation of Lithium Batteries

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advisory notice.

SUMMARY: RSPA (we) is aware of an incident during transportation in which a fire occurred in a shipment of primary lithium batteries which are excepted from the Hazardous Materials Regulations (HMR). We are issuing this advisory notice to (1) inform persons of this incident and the potential hazards that shipments of lithium batteries may present while in transportation, (2) recommend actions to offerors and transporters to ensure the safety of such shipments, (3) provide information concerning the current requirements for the transportation of lithium batteries, (4) inform persons of recommendations that we received from the National Transportation Safety Board (NTSB) on the transportation of lithium batteries and our response to those recommendations, (5) inform persons of the actions we have taken to date and plan to take in the future to address the hazards of these batteries, and (6) provide information concerning initiatives being taken by members of the battery manufacturing and distribution industry to address concerns relating to transportation of these batteries.

FOR FURTHER INFORMATION CONTACT: John Gale or Eric Nelson, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

SUPPLEMENTARY INFORMATION:

I. Guidance and Recommendations

We recommend that offerors and transporters take precautions in the transportation of lithium batteries that are presently excepted from regulation as a hazardous material under 49 CFR 173.185 of the HMR (49 CFR parts 171-180) and Special Provision A45 of the International Civil Aviation Organization (ICAO) Technical Instructions for the Transport of Dangerous Goods by Air (Technical Instructions). On April 28, 1999, at Los Angeles International Airport (LAX), a shipment of two pallets of primary lithium batteries caught fire and burned after being off-loaded from a Northwest Airlines flight from Osaka, Japan. While the pallets were being handled by cargo handling personnel, the packages were damaged. This is believed to have initiated the subsequent fire. The fire was initially fought by Northwest employees with portable fire extinguishers and a fire hose. Each time the fire appeared to be extinguished, it flared up again.

The two pallets involved in the fire contained 120,000 non-rechargeable lithium primary batteries. These

batteries contain small amounts of lithium metal. However, because of existing exceptions in the HMR and the ICAO Technical Instructions, these packages were excepted from all hazard communication requirements (*i.e.*, marking, labeling and shipping papers). It should be noted that there are two basic categories of lithium batteries: primary (non-rechargeable) lithium batteries, and secondary (rechargeable) lithium batteries. Primary lithium batteries employ different technology to produce electricity than do rechargeable lithium batteries. The incident at LAX airport involved primary lithium batteries; however, in the interest of caution, we recommend that an offeror of either category of lithium batteries take the following steps:

(1) Ensure that the batteries are packaged in a manner that conforms to the HMR, in packages capable of withstanding conditions normally encountered in transportation, including preventing the release of packaged contents or damage to the package which could make the batteries unsafe.

(2) Inform transporters that packages contain such batteries, and specify what actions should be taken if packages are damaged through package markings, shipping papers or other means.

We recommend that a transporter, especially an aircraft operator:

(1) Exercise care in handling of all packages to avoid damage, whether or not those packages are identified as containing hazardous materials.

(2) Remove any damaged packages containing lithium batteries from transportation until it is determined that the batteries are free from damage and can be appropriately repackaged and continue in transportation.

These recommendations are consistent with actions being taken voluntarily by members of the battery industry as discussed in more detail below.

II. Regulatory Provisions, NTSB Recommendations and DOT Actions

A. Regulatory Provisions for Lithium Batteries

Consistent with international standards, the HMR regulate lithium metal as a Division 4.3 (Dangerous When Wet) material and lithium batteries are regulated as Class 9 (miscellaneous) hazardous materials. However, many lithium batteries which meet certain conditions are excepted from other requirements in the HMR. All lithium batteries and cells must be designed or packed in a way as to prevent short-circuits under conditions

normally encountered in transportation. Lithium batteries excepted from the HMR include liquid cathode batteries containing no more than 0.5 grams of lithium or lithium alloy per cell, or containing an aggregate quantity of no more than 1 gram of lithium or lithium alloy, and solid cathode batteries containing no more than 1 gram of lithium or lithium alloy per cell, or an aggregate quantity of no more than 2 grams of lithium or lithium alloy. Cells that contain 5 grams or less of lithium or lithium alloy and no more than 25 grams of lithium or lithium alloy per battery are also excepted from the HMR if they pass tests specified in the United Nations (UN) Manual of Tests and Criteria. Cells and batteries that do not meet the test requirements and cells and batteries that contain lithium and lithium alloys above these levels are subject to the HMR as a Class 9 material and must be packed in UN performance oriented packagings, and marked, labeled, and described on shipping papers in accordance with the HMR.

B. NTSB Recommendations

On November 16, 1999, the National Transportation Safety Board issued five safety recommendations to RSPA on the transportation of lithium batteries. The recommendations were issued as the result of the Safety Board's investigation of the incident that occurred on April 28, 1999, at LAX. The recommendations are as follows:

A-99-80. With the Federal Aviation Administration, evaluate the fire hazards posed by lithium batteries in an air transportation environment and require that appropriate safety measures be taken to protect aircraft and occupants. The evaluation should consider the testing requirements for lithium batteries in the United Nation's Transport of Dangerous Goods Manual of Tests and Criteria, the involvement of packages containing large quantities of tightly packed batteries in a cargo compartment fire, and the possible exposure of batteries to rough handling in an air transportation environment, including being or abraded open.

A-99-81. Pending completion of your evaluation of the fire hazards posed by lithium batteries in an air transportation environment, prohibit the transportation of lithium batteries on passenger-carrying aircraft.

A-99-82. Require that packages containing lithium batteries be identified as hazardous materials, including appropriate marking and labeling of the packages and proper identification in shipping documents, when transported on aircraft.

A-99-83. Pending completion of your evaluation of the fire hazards posed by lithium batteries in an air transportation environment, notify the International Civil Aviation Organization's Dangerous Goods Panel about the circumstances of the fire in the Northwest Airlines cargo facility at Los Angeles International Airport on April 28, 1999. Also pending completion of your evaluation of the fire hazards posed by lithium batteries in an air transportation environment, initiate action through the Dangerous Goods Panel to revise the *Technical Instructions for the Safe Transportation of Dangerous Goods by Air* to prohibit the transportation of lithium batteries on passenger-carrying aircraft.

A-99-84. Initiate action through the Dangerous Goods Panel to revise the *Technical Instructions for the Safe Transportation of Dangerous Goods by Air* to require that packages containing lithium batteries be identified as hazardous materials when transported on aircraft.

Copies of the November 16, 1999, NTSB letter and our response are in the public docket. A summary of our response appears in the next section of the preamble.

C. DOT Actions

We responded to the NTSB in a letter dated March 29, 2000. In that response, we stated that we were re-evaluating both the hazards posed by lithium batteries in air transportation and the safety measures necessary to protect an aircraft and its occupants. Additional information is being collected from lithium battery manufacturers and Federal agencies with extensive experience with testing and the use of lithium batteries. DOT also intends to conduct experimental evaluations necessary to obtain information not available from other sources. Our investigation is studying both primary lithium batteries and rechargeable lithium batteries.

In our response to NTSB we stated that, taking into account the hazards that lithium batteries present in transportation, the unusual nature of the LAX incident, the number of lithium batteries that have been transported safely on passenger-carrying aircraft, and the potential economic consequences, we could not justify an immediate prohibition on the transportation of lithium batteries on passenger-carrying aircraft. We are, however, initiating alternative actions to address the risk lithium batteries present in air transportation. These alternative actions include developing and distributing information aimed at shippers and airline personnel on the

potential hazards of lithium batteries, such as the information contained in this notice, and based on the findings of our evaluation, initiating rulemaking action as necessary to address the classification, hazard communication, packaging, and operational controls relating to lithium batteries. We have also notified the ICAO Dangerous Goods Panel of the LAX incident and have initiated proposals to amend the United Nations Recommendations on the Transport of Dangerous Goods.

We have met with representatives of the battery industry concerning actions being taken voluntarily by them to mitigate these hazards, as set forth in the following section.

Upon completion of our evaluation of lithium batteries, we will initiate any additional actions necessary to address the hazards posed by the transportation of lithium batteries.

III. Actions by Members of the Battery Industry

To address the concerns described above while we are considering further regulatory action, companies from around the world involved in the manufacture and distribution of small lithium primary, and lithium ion lithium polymer rechargeable cells and batteries voluntarily are implementing a program to identify and provide information concerning these batteries. The activity is expected to result in modification of shipping practices associated with the vast majority of small lithium primary and lithium ion rechargeable cells and batteries. A summary of the program's elements, as provided to us by these companies, is provided below:

Lithium, lithium ion and lithium polymer cells and batteries exempt from regulations under 49 CFR 173.185, Special Provision A45 of the ICAO Technical Instructions, and/or Special Provision 188 of the UN Recommendations on the Transport of Dangerous Goods Model Regulations ("covered products") will be affected by this program.

Implementation will begin September 1, 2000. The full program is expected to be in place by February 1, 2001 and DOT will be provided a list of companies who are voluntarily complying.

Each shipment of covered products that is originated by a participating company and contains more than 20 new primary lithium cells or 10 new primary lithium batteries will be marked to identify its content and recommended response actions in the event of an accident or damage to packaging. The text will appear in both

English and the language of the shipment's origin, and will state "Lithium batteries inside. Do not damage or mishandle this package. If package is damaged or mishandled, batteries must be quarantined, inspected, and repacked." The label will include a toll free number to call in the event of an emergency.

Each shipment of covered products that is originated by a participating company and contains more than 40 new lithium ion or lithium polymer cells or more than 20 new lithium ion or lithium polymer multi-cell battery packs (regardless of the number of cells in each) will carry a label explicitly identifying its content and recommended response actions in the event of an accident or damage to packaging. The text will appear in both English and the language of the shipment's origin, and will state "Lithium ion rechargeable batteries inside. (No lithium metal.) In the event of fire, use Class B or C extinguisher. If package is damaged or mishandled, batteries must be quarantined, inspected, and repacked."

Packages which are marked will not exceed 30 kg and will be UN 4G fiberboard boxes, at the Packing Group II performance level, or equivalent.

Participating companies will provide to air carriers, freight forwarders and other shippers involved in the air transportation of covered products brochures or similar documents that describe the covered products and packages, the physiochemical characteristics of covered products, the communications program, and safe shipment handling procedures for covered packages.

Issued in Washington, DC, on August 30, 2000.

Robert A. McGuire,
Associate Administrator for Hazardous
Materials Safety.

[FR Doc. 00-22838 Filed 9-6-00; 8:45 am]

BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

[RSPA-00-7795]

Pipeline Safety: Meeting of the
Integrity Management Communication
Team

AGENCY: Research and Special Programs
Administration, DOT.

ACTION: Notice of Integrity Management
Communication Team Meeting.
