



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JUL 10 2012

Brent E. Knoblett
DOD Explosive Safety Board
4800 Mark Center Drive Suite 16E12
Alexandria, VA 22350

Ref. No. 12-0084

Dear Mr. Knoblett:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to technical names. Specifically, you ask whether the removal of § 172.102(c)(1) Special provision 101 in 2006 results in noncompliance for certain Department of Defense (DOD) explosive shipments. You state that certain DOD explosive shipments approved under generic descriptions such as "Articles, explosive, n.o.s." were formerly assigned Special provision 101 in column 7 of the § 172.101 Hazardous Materials Table that required the name of the particular substance or article to be specified as the technical name for the substance or article (e.g., "Fuze, Grenade, M219A2") in association with the basic description. You assert the current provisions in §§ 171.8 and 172.203(k) of the HMR do not permit technical names to be indicated in such a manner as former Special provision 101 required.

In a notice of proposed rulemaking (NPRM) published in the *Federal Register* on August 31, 2006 (71 FR 51895), we proposed to remove § 172.102(c)(1) Special provision 101. In the NPRM, we stated that with the introduction of the letter "G" in Column (1), which requires the n.o.s. and generic proper shipping names to be supplemented with the technical name of the hazardous material, Special provision 101 became obsolete. Consequently, because we did not receive public comment, the amendment was adopted as proposed in a final rule published in the *Federal Register* on December 29, 2006 (71 FR 78596).

We intend to address this issue in a future rulemaking. In the interim, because DOD TB 700-2 is incorporated by reference in its entirety in § 171.7 of the HMR, you may continue to use it as the authority for assigning technical names to certain explosive descriptions in accordance with former Special provision 101 as prescribed in DOD TB 700-2.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

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

Stevens
§ 172.102 SP 101
Special Provision
12-0084

March 30, 2012

Brent E. Knoblett
Department of Defense
Explosive Safety Board
4800 Mark Center Drive
Suite 16E12
Alexandria, VA 22350

Dear Director Betts,

What happened to Special Provision 101 under 49 CFR 172.102, or perhaps more importantly, what happened to what it used to say? I believe that once upon a time it used to state "The name of the particular substance or article must be specified." And it was in reference to assigning a Technical Name as necessary under 49 CFR. I am asking this because during a recent DoD shipment our assigned Technical Name, "Window Cutting Assembly" (i.e., the name of the article), was challenged by a FedEx rep as being non-compliant with 49 CFR. That got us looking into the details, where we could no longer find SP 101 or any 49 CFR clause currently allowing a Technical Name to still be the article's name, and so now we're asking you for assistance. DoD's issue may become more systemically significant than that one instance mentioned above because I believe our updated draft TB 700-2 verbiage regarding assigning Technical Names was based on what SP 101 used to say. That is, our draft TB text currently still allows a Technical Name to be the article's name, and since we've been unaware of SP 101's fate since crafting that TB text a long time ago, we probably have quite a number of records in our JHCS database that were executed in accordance with the protocol of allowing Technical Names to be article names. So does DOT agree with DoD publishing our specific Technical Name assignments text in draft updated TB 700-2 as is?

Thank you. Please don't hesitate to call me.

Brent