



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

DEC 18 2012

Vaughn Arthur  
President  
Dangerous Goods Advisory Council  
1100 H Street, NW, Suite 740  
Washington, DC 20005

Ref. No. 12-0259

Dear Mr. Arthur:

This responds to your November 8, 2012 letter requesting PHMSA to reconsider the opinion issued in our May 9, 2012 letter (Ref. No. 12-0068). PHMSA has issued several letters of interpretation, including our May 9, 2012 letter (Ref. No. 12-0068), responding to requests for us to clarify the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the emergency response information required in § 172.602(a)(1) and § 172.602(b)(3).


In those letters PHMSA has consistently held that the requirements of § 172.602(a)(1) and § 172.602(b)(3) are not met solely by entering the Guide page of the Emergency Response Guidebook (ERG) on the shipping paper in association with the listing of the hazardous material and attaching the Guide page to the shipping paper. PHMSA has stated that when an ERG Guide page, and not the entire ERG is used, the Guide page must include the basic description and if applicable, the technical name of the hazardous material. PHMSA has further stated that if the entire ERG, not just an ERG Guide page, is present on the transport vehicle, the requirements of § 172.602(a)(1) and § 172.602(b)(3) are satisfied.

The emergency response information requirements are designed to facilitate the immediate and reliable communication of information concerning the nature and quantity of hazardous materials moved in transportation, so that carrier personnel, law enforcement officials, and first responders know to take appropriate precautions in handling, law enforcement, and emergency response situations. Ultimately, the emergency response information is only as effective as the ability of these individuals to quickly identify the hazardous materials present on the vehicle and respond appropriately to an incident involving those materials. Accordingly, if the emergency response information is provided in an ERG Guide page attached to the shipping paper, we require that the Guide page include the basic description and if applicable, the technical name of the hazardous material.

If you believe a rulemaking change is warranted, we invite you to file a petition for rulemaking in accordance with § 106.95 including all information (see § 106.100) needed to support your petition.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Benedict". The signature is fluid and cursive, with the first name "Robert" written in a more compact, stylized manner and the last name "Benedict" written in a more extended, flowing script.

Robert Benedict  
Chief, Standards Development Branch  
Standards and Rulemaking Division



## Dangerous Goods Advisory Council

Suite 740 ♦ 1100 H Street NW ♦ Washington DC 20005 ♦ 202/289-4550 ♦ Fax 202/289-4074 ♦ www.dgac.org

November 9, 2012

Winter  
3172.602  
Emergency Response Information  
12-0259

Mr. Charles Betts  
Chief, Standards Rulemaking Division  
Pipeline & Hazardous Materials Safety Administration  
U.S. Department of Transportation  
Washington, DC 20590

### Re: Request for reconsideration of PHMSA letter of interpretation #12-0068

Dear Mr. Betts:

The Dangerous Goods Advisory Council (DGAC) requests that you reconsider PHMSA's interpretation letter #12-0068. In our opinion, the conclusion is incorrect and is contrary to industry practice.

The interpretation letter deals with the provision of emergency response information in accordance with §172.602(b)(3). In PHMSA's response to the questioner, PHMSA states that when an ERG page is used, "it must include the basic description and if applicable, the technical name of the hazardous material." We question whether this is required by the regulations.

We recognize that the required emergency response information may, in accordance with §172.602(b)(3)(iii), be provided on a separate document such as an MSDS. In this case, the basic description and technical name must be provided on the document.

However, it is our opinion that providing emergency response information by way of a guide page from the NAERG is covered by §172.602(b)(3)(iii). This section permits the use of a separate document and identifies "an emergency response guidance document" as an example. While the text goes on to identify complete documents (i.e., ICAO and IMO documents) that may be used to satisfy the document requirement, there is nothing in the text that would preclude the use of an excerpt (i.e., an NAERG guide page) from satisfying the regulation.

Under §172.602(b)(3)(iii), the description of the hazardous material on the shipping paper must be cross referenced with the emergency response information in the document. A common manner of cross referencing is to include a reference to the guide page on the shipping paper. The guide page in turn has the guide number at the

**November 9, 2012**

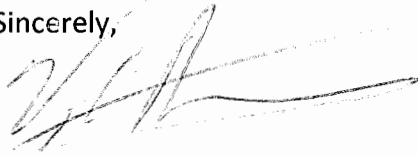
**Re: DGAC Request for Reconsideration of Interpretation #12-0068**

top of the page. It is our opinion that providing the emergency response information in this manner fully satisfies the requirements in §172.602(b)(3)(iii). There is nothing to suggest that the basic description and if applicable, the technical name of the hazardous material must be included on the ERG guide page to satisfy the cross referencing requirement.

On the basis of the above, we request that you reconsider interpretation #12-0068 and that you clarify that a reference to the ERG guide page on the shipping paper in association with the basic description is an acceptable way of providing cross referencing when an ERG guide page is used to satisfy §172.602(b)(3).

We appreciate your consideration of this matter. Please contact me directly if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vaughn Arthur', with a long horizontal flourish extending to the right.

Vaughn Arthur  
President