



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

JUN 09 2011

Mr. Thomas J. Ziebell
J.J. Keller and Associates, Inc.
3003 W. Breezewood Lane
Neenah, WI 54957

Reference No. 11-0008

Dear Mr. Ziebell:

This is in response to your e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to emergency response telephone number requirements. Specifically, you ask whether § 172.604(b)(1) addresses shippers (offerors) providing their own emergency response telephone, number and whether § 172.604(b)(2) addresses offerors using an emergency response information (ERI) provider. You believe if this is so, the wording in § 172.604(b)(1), "contract number or other unique identifier assigned by an ERI provider," as added in the final rule HM-244C, "Minor Editorial Corrections and Clarifications" [75 FR 53593], published on September 1, 2010, should be removed to make the intent clearer. You also state that we did not make the corresponding HM-244C changes to § 172.201(d).

You are correct in your understanding of the intent of §§ 172.604(b)(1) and (b)(2). Section 172.604(b)(1) is intended to address the offeror also serving as the ERI provider, and paragraph (b)(2) is intended to address the offeror using a third party to serve as the ERI provider. We will revise § 172.604(b)(1) accordingly and also review § 172.201(d) for consideration of any necessary revisions in an upcoming rulemaking action.

Thank you for bringing this matter to our attention.

Sincerely,

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

Drakeford, Carolyn (PHMSA)

McIntyre
§ 172-604
§ 172.201

From: McIntyre, Joan (PHMSA)
Sent: Wednesday, January 12, 2011 12:30 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: ER telephone number for Interp Lett

Emergency Response Telephone Number
11-0008

From: Thomas Ziebell [mailto:tziebell@JJKELLER.COM]
Sent: Thursday, January 06, 2011 4:17 PM
To: McIntyre, Joan (PHMSA)
Cc: Betts, Charles (PHMSA); Boothe, Deborah (PHMSA); Betty Weiland
Subject: ER telephone number

Happy New Year Joan,

I talked to Deborah Boothe in the fall of 2010 about the emergency response telephone number regulation changes in HM-244C. She said that the changes in section 172.604 came from you and I should talk to you about my concerns. She also told me that you wrote the HM-206F information, dated October 2010, that is on the PHMSA web site clarifying the new requirements.

After reading your HM-206F information on the web site and the text that was published in HM-244C, I think it was intended to have two distinct situations addressed in 172.604(b)(1) and (b)(2). Paragraph (b)(1) would address shippers who provide the ER information and (b)(2) for shippers who use an ERI provider. Assuming this was the intent, I suggest the following.

In 172.604(b)(1) that appeared in the September 1, 2010 final rule, it appears that there is some extra text in the second sentence. If the text ", or contract number or other unique identifier assigned by an ERI provider," was removed it would be clear that this paragraph applies to shippers who provide ER information and do not use an ERI provider. Having this "extra" text clouds the distinction between the two paragraphs.

Also, I mentioned to Deborah that in HM-244C there were no changes made to 172.201(d) to match the new text in 172.604(b). Something for a future correction rule.

Feel free to contact me if you have any questions or comments.

Tom Ziebell
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