



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

MAR 20 2007

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

Mr. David Ellis
Compliant Technologies, Inc.
8325 Beals Chapel Road
Lenoir City, TN 37772

Ref No. 07-0052

Dear Mr. Ellis:

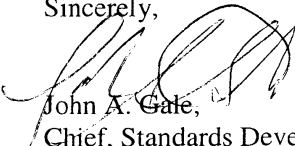
This is in response to your February 28, 2007 letter requesting further clarification of our letter to you dated August 16, 2006 concerning the requirements for immediate notice of certain hazardous materials incidents under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether your understanding of the term "earliest practical moment" used in our previous response is correct.

In your recent letter, you state your belief that a person must report an incident as soon as physically possible after the incident scene is secured and the initial local emergency response process has been initiated (i.e.; calling 911). You state you understand "earliest practical moment" to mean minutes, not hours, provided that no extenuating circumstances exist. You provide examples of extenuating circumstances such as, if an incident occurs on a remote highway, or a driver is incapacitated. You ask if your interpretation of the phrase "earliest practical moment" used in our August 16, 2006 response is correct.

The answer is yes. As required under § 171.15 of the HMR, an incident listed under paragraph (b) must be reported by telephone by each person in physical possession of the hazardous material to the National Response Center (NRC), or to the Director, Centers for Disease Control and Prevention, in place of the NRC, for a notice involving an infectious substance (etiologic agent). Notice must occur as soon as practical, but no later than 12 hours after the occurrence of the incident. Any reporting delay beyond what is necessary to safely secure the scene of the incident is not permitted.

I hope this information is helpful.

Sincerely,



John A. Gate,
Chief, Standards Development
Office of Hazardous Materials Standards



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171.15

Foster

3/7/15

Hazardous Materials Incidents

07-0052

February 28, 2007

Compliant Technologies, Inc.
David Ellis
8325 Beals Chapel Road
Lenoir City TN 37772
Phone: (865) 384-3926

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety
400 Seventh Street S.W.
Washington, DC 20590

Re: Follow-up Question on Interpretation

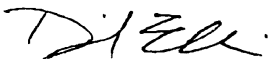
To Whom It May Concern:

I have a brief follow-up question regarding an interpretation that we received from the Department of Transportation dated August 16, 2006 (Reference number 06-0149) regarding immediate notification requirements for certain incidents described in 49 CFR 171.15. The question revolves around the meaning of the phrase "earliest practical moment" used in the interpretation. We believe that the earliest practical moment under 49 CFR 171.15 means minutes and not hours provided that no extenuating circumstances exist preventing such. Essentially, one must report as soon as physically possible after the scene is secured and the initial local emergency response process (i.e., 911) has been initiated. The EPA has a long standing interpretation that immediate (at the earliest practical moment) means a period of 15 minutes or shorter if feasible for reportable quantities of hazardous substances. An example where hours might be permissible would be an accident on a remote highway and/or where a driver is incapacitated. Is our understanding of the earliest practical moment requirement accurate?

We believe this question is important to answer for at least two reasons. First and foremost, all Federal and State agencies should have information in their hands as soon as possible after a triggering incident. Secondly, the question is relevant to ensure that no person or entity uses "semantics" in language to avoid enforcement action. Accidents can and do happen, but it is absolutely critical that the notification and emergency response process does not fail.

I would appreciate a prompt written reply to the above question.

Sincerely,



David Ellis
Compliant Technologies, Inc.