



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

JUN 20 2007

Mr. George Sabo
Senior Emergency Response Manager
Emergency Response and Training Solutions
8401 Chagrin Rd., Suite 15B
Chagrin Falls, OH 44023

Ref. No. 07-0096

Dear Mr. Sabo:

This is in response to your electronic transmission requesting clarification of the incident reporting requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You ask whether your company may perform the functions under the incident reporting requirements in §§ 171.15 and 171.16 on behalf of the person in physical possession of a hazardous material. You also ask whether electronic reporting may take the place of providing notice by telephone.

Any person who performs or is contractually responsible to perform any of the HMR functions is legally responsible under the HMR for their proper performance. As such, your company may perform the incident reporting requirements in §§ 171.15 and 171.16 on behalf of the person in physical possession of a hazardous material.

With respect to electronic reporting, it is not an option for the § 171.15 immediate notice of incident reporting requirements; a report by telephone is required. However, as provided by § 171.16(b)(1), an electronic report on DOT Form F5800 may be submitted in lieu of a written report sent by mail for the detailed incident report.

I hope this information is helpful. Please contact this office if you have additional questions.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



070096

171.15
171.16 (b)(1)

McIntyre
 § 171.15
 § 171.16

Incidents Reports
 07-0096

INFOCNTR <PHMSA>

From: George Sabo [gsabo@ertsonline.com]
Sent: Thursday, May 10, 2007 2:45 PM
To: INFOCNTR <PHMSA>
Subject: Request for interpretation

Dear Sirs,

My company Emergency Response and Training Solutions (ERTS) is an environmental consulting firm for the trucking industry. We have been following the same procedure for required reporting of hazardous material incidents to the National Response Center for many years and recently have been questioned about or regulatory rights and procedures as currently being employed. I would appreciate clarification and interpretation of a few points of the regulations:

1) 171.15 states that each person in physical position of the hazardous material must provide notice.

We do all the reporting on behalf of the responsible party and indicate so when reporting is made. Is this a violation of the regulations? We do have contacts in place with each client giving us the authority to complete all required reporting as necessary.

2) 171.5 also state that notice is to be made to the NRC by telephone.

Since mid 2006 the NRC has offered electronic reporting via their website with either confirmation via e-mail or telephone with report numbers provided at that time. Is electronic reporting acceptable for reporting of hazardous material release? I spoke with Petty Officer Paulis at the NRC and he was not aware of any violation of reporting requirements by submitting reports electronically.

3) 171.16 repeats the same stipulation for telephonic reporting by person in physical control of hazardous material at time of release.

Again we complete all required reporting on behalf of the responsible party and some reports are made electronically.

We understand that the regulations may not have been updated to include the electronic reporting, but would appreciate verification and clarification on the procedures that we currently employ. I spoke with Kurt at the DOT hotline and he was fairly certain we were in compliance particularly because ERTS and their clients were taking a pro-active approach to reporting but did indicate that some interpretation of the regulation is required.

The NRC website and the instructions for electronic reporting do not state that electronic reporting for certain incidents may not meet the required reporting requirements.

If additional information is required I can be reached at the numbers below or via e-mail.
 Thank you for your assistance in this matter.

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