



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

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

MAR 2 2001

Mr. Ken Sumner  
President, KWS Training, Inc.  
P.O. Box 562  
Carrboro, NC 27510

Reference No. 00-0218

Dear Mr. Sumner:

This is in response to your letter concerning the emergency response requirements in 49 CFR Part 172, Subpart G, for a "Consumer commodity, ORM-D." You asked why a consumer commodity is excepted from having to meet the emergency response requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), but must meet these same requirements under State Variation US 12 of the International Civil Aviation Organization's Technical Instructions for the Transport of Dangerous Goods by Air (the ICAO Technical Instructions).

Materials that are correctly described as consumer commodity and classed as ORM-D, as provided by the HMR, or Class 9, as provided by the ICAO Technical Instructions, are not required to meet the emergency response information requirements. Voluntary compliance with this change was permitted after August 18, 2000 (65 FR 50450, RSPA Docket No. 99-6213, HM-218, copy enclosed). This authorization in the HMR serves as a Competent Authority approval for the ICAO Technical Instructions. Also, State Variation US 12 was revised to include this change, which will appear in the 2001-2002 edition of the ICAO Technical Instructions.

I hope this satisfies your request.

Sincerely,

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

Enclosure

172.600



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Edmonson  
§ 172.600(d)  
Emergency Response  
Information

00-0218

8/3/00

Mr. Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards  
U.S. DOT/RSPA (DHM-10)  
400 7th Street S.W.  
Washington, D.C. 20590-0001

Dear Mr. Mazzullo,

In January of this year I emailed the question below to the Hazardous Materials Information Center. They acknowledged the issue and thought additional review would be appropriate. On the recommendation of the HMIC I then faxed the question to the attention of Frits Wybenga and Bob Richards. Mr. Wybenga contacted me and suggested I forward the question to you for a more formal response.

It appears the United States has two different positions on providing emergency response information for shipments of consumer commodities. For shipments made under the provisions of 49 CFR emergency response information is not required. For shipments made under the ICAO Technical Instructions it appears emergency response information is required.

The provisions of 172.600(d) except materials properly classified as an ORM-D (consumer commodities and cartridges, small arms) from the emergency response information requirements of Subpart G of Part 172. This means that shippers of consumer commodities, by any mode of transport within the United States, do not have to provide an emergency phone number or emergency response information.

If shipments of consumer commodities are made under the provisions of 171.11 (ICAO Technical Instructions) this appears to be incorrect. According to ICAO State Variation USG-12 "On shipments to, from, within or transiting through the U.S., emergency response information as described below must be provided for all dangerous goods other than magnetized material and dangerous goods for which no Transport Document is required." Since consumer commodities require a transport document for carriage aboard aircraft, emergency response information requirements appear to apply.

Additionally, consumer commodities are considered Class 9, not ORM-D, under the ICAO Technical Instructions. This means they do not qualify under 172.600(d) as "properly classified as an ORM-D".

Given the exception in 49 CFR for consumer commodities it seems a contradiction to require emergency response information under the ICAO Technical Instructions. Would it be more appropriate to reword 172.600(d) and USG-12 for consistency? Your clarification of this issue would be most appreciated.

Regards,

A handwritten signature in cursive script, appearing to read "Ken Sumner".

Ken Sumner  
President