



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

September 23, 2025

Mr. Kyle McLaughlin
Compliance Manager
KVAC Environmental
PO Box 1505
Rancho Cucamonga, CA 91729

Reference No. 25-0013

Dear Mr. McLaughlin:

This letter is in response to your January 2, 2025 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to hazardous substance determinations and shipping descriptions.

We have paraphrased and answered your questions as follows:

- Q1. How can an offeror of hazardous materials reconcile differences between Appendix A to the § 172.101 table and 40 CFR § 302.4 when determining the reportable quantity of a hazardous substance, specifically when dealing with materials listed due to constituents vs. hazard characteristics?
- A1. The Department of Transportation (DOT) is required by the Superfund Amendments and Reauthorization Act of 1986 to regulate as hazardous materials those materials designated as hazardous substances under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). However, the Department was not given authority to determine what is or is not a hazardous substance or the appropriate reportable quantity (RQ) for materials designated as hazardous substances. This authority is vested in the Environmental Protection Agency (EPA). The list of hazardous substances, designated under Section 101(14) of CERCLA, has been prescribed by the EPA under 40 CFR § 302.4. DOT's corresponding list of hazardous substances and reportable quantities is found in Appendix A to § 172.101 of the HMR. As stated in the previous Letter of Interpretation you referenced (Reference No. 04-0182), when the specific constituent of the hazardous waste and its respective concentration is known, the RQ for the constituent should be used when determining whether a reportable quantity has been met.
- Q2. Must similar containers of a material be listed separately on a shipping paper when only some exceed the reportable quantity?

A2. No. Packages may be described under one line entry on a shipping paper using the “RQ” designator provided some of the packages contain a reportable quantity.

In addition, please note on July 1, 2025, PHMSA published a notice of proposed rulemaking titled “Hazardous Materials: Remove Redundant List of U.S. EPA CERCLA Hazardous Substances” under Docket HM-268E.¹ PHMSA proposes to revise the HMR to remove redundant pages contained in an Appendix that repeats references already listed in EPA regulations. If adopted, HM-268E would direct readers to the 40 CFR § 302.4 list to determine whether a material meets or exceeds the RQ.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, reading "Alexander Wolcott". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Alexander Wolcott
Acting Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

¹ 90 FR 28544 (Jul 1., 2025).

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January 2, 2025

Mr. Shane Kelly
Director, Standards and Rulemaking Division
US DOT/PHMSA (PHH-10)
1200 New Jersey Ave SE East Building 2nd Floor
Washington, DC 20590

Re: Request for Interpretation on Questions Relating to Hazardous Substances

To Whom It May Concern:

I am writing on behalf of K-VAC Environmental Services, Inc. to request regulatory interpretation on the following matters:

1. The reconciliation between Appendix A to 49 CFR 172.101 and 40 CFR 302.4
2. The potential differentiation of containers on shipping papers as it relates to reportable quantity

I am aware of Interpretation Response #04-0182 but would appreciate more guidance on how this reconciles with 40 CFR 302.4. I will similarly use acetone and sulfuric acid as examples.

Appendix A to 49 CFR 172.101 seems not to account for the nuances found within 40 CFR 302.4, which contains more information and is the original table listing hazardous substances.

For the purposes of this letter, I provide the following contracted table from 40 CFR 302.4:

Hazardous substance	CASRN ⁱ	Statutory code ⁱⁱ	RCRA Waste No	Final RQ [pounds (kg)]
Acetone	67-64-1	4	U002	5000 (2270)
Sulfuric acid	7664-93-9 8014-95-7	1		1000 (454)
Unlisted Hazardous Waste Characteristic of Corrosivity	N.A.	4	D002	100 (45.4)
Unlisted Hazardous Waste Characteristic of Ignitability	N.A.	4	D001	100 (45.4)

The "Statutory code" column provides the source for the inclusion of that hazardous substance. Note II of that table states, "The 'RCRA waste No.' column provides the waste identification numbers assigned by RCRA regulations."

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This table, which I understand to be the foundational source of Appendix A to 49 CFR 172.101, indicates the following to me:

1. Acetone is a listed hazardous substance insofar as it carries RCRA Waste Code U002, which by the nature of that code would mean it is in the form of an unused commercial chemical.
2. Sulfuric acid is a listed hazardous substance due to it being a Clean Water Act Hazardous Substance, waste or not.

From this, I conclude the following:

1. Acetone is only a listed hazardous substance with a reportable quantity of 5,000 lb when it is a waste carrying a U002 code. Because acetone would also have the characteristic of flammability, it would necessarily carry the D001 code, but as a listed hazardous substance, it would use the specific reportable quantity. Waste acetone solely carrying the D001 code would have a reportable quantity of 100 lb.
2. A product hazardous due to its acetone constituent, be it pure or a mixture, could not be a hazardous substance. The statutory source for acetone's inclusion in the table is RCRA. As a product, not a RCRA waste, the hazardous material in question would carry neither a U002 nor D001 code and therefore could not be considered a hazardous substance.
3. Sulfuric acid is a listed hazardous substance without regard to RCRA Waste Codes. It will have a reportable quantity of 1,000 lb whether it is a product or waste.

I came to these conclusions prior to being made aware of Interpretation Response #04-0182. I appreciate the reasoning of that response because it does offer a simpler and easier to understand solution, but I'm not sure I see how it is fully supported by the relevant regulatory language.

Please elaborate on how Appendix A to 49 CFR 172.101 reconciles with 40 CFR 302.4. I have searched the Federal Register but have not found anything useful in clarifying the relationship or discrepancies between the two tables. In my view, the tables and their accompanying codes are fundamentally linked. To support that assertion, I would point out that the entire purpose of the RQ designation is facilitating notification to the National Response Center, the complete requirements of which are found in 40 CFR 302.6.

My question on shipping papers stems from the definition of a hazardous substance found in 49 CFR 171.8. Let's say, for example, we have two containers of the same D001 Unlisted

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Hazardous Waste, whose reportable quantity is 100 lb. However, one container weighs more than 100 lb and the other less. Because, as provided in Point 2 of the definition, the hazardous substance determination depends on the quantity in one package, should the two containers be listed as separate line items on the shipping paper, one with "RQ" in the description and the other without?

To reiterate, our questions are as follows:

1. How does Appendix A to 49 CFR 172.101 reconcile with the detailed table in 40 CFR 302.4 in determining an applicable reportable quantity?
2. Should otherwise identical containers of a particular material be listed as separate line items on a shipping paper if the weights of only some of them exceed the reportable quantity?

Your regulatory interpretation will greatly assist us in identifying hazardous substances and achieving our goal of complete regulatory compliance. We thank the personnel at the PHMSA in advance for their time and energy in crafting a response to this letter.

Sincerely,



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