

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

Dear Sir

We respectfully request a written letter of interpretation of **49 CFR §173.3(e)** concerning the emergency transportation of leaking DOT 3A480 and DOT 3AA480 cylinders, and DOT 106A500 multi-unit tank car tanks, containing chlorine or sulfur dioxide that have been temporarily repaired prior to transport. The regulation specifies the use of a **Chlorine Institute Kit A** or **Chlorine Institute Kit B**, as applicable, as part of the conditions authorizing a one-time, one-way movement to a facility for discharge and examination.

Background

49 CFR §173.3(e)(1) and (2) authorize transportation of certain leaking chlorine and sulfur dioxide packages after temporary repair using the applicable Chlorine Institute emergency repair kit and by trained personnel. The regulation expressly references Chlorine Institute Kit A and Kit B and excludes specific repair devices intended for side leaks.

Advances in leak mitigation technology have resulted in the development of alternative containment and repair systems that may provide an equivalent or greater level of safety than the Chlorine Institute kits identified in the regulation. These systems may be designed, tested, and validated for the same leak scenarios addressed by the Chlorine Institute equipment.

Request for Interpretation

We request PHMSA's written interpretation regarding the following questions:

1. Does 49 CFR §173.3(e) require the exclusive use of the specified Chlorine Institute Kit A or Kit B as a condition of the emergency transportation authorization?
2. May a person utilize an alternative leak mitigation or containment system in place of the specified Chlorine Institute Kit if the alternative system:
 - Is designed for the same valve or fusible plug leak scenarios.
 - Provides an equivalent or greater level of safety.
 - Is used by personnel trained in its operation; and
 - Successfully stops or contains the release prior to transportation.

3. If an alternative system is not permissible under the existing language of §173.3(e), would use of such a system require a DOT Special Permit or other specific authorization before the package could be transported?
4. Does PHMSA consider the reference to Chlorine Institute Kit A and Kit B in §173.3(e) to be performance-based guidance, or a prescriptive regulatory requirement that limits the exception exclusively to those identified repair systems?

Requester's Understanding

Based on the current regulatory text, our understanding is that the transportation exception in §173.3(e) is tied specifically to the use of the identified Chlorine Institute kits because the regulation expressly names those repair methods and does not appear to provide an equivalent-level-of-safety provision for alternative devices. However, we seek confirmation from PHMSA regarding whether alternative technologies may be used under the existing regulation or require separate authorization.

Thank you for your consideration of this request. We appreciate PHMSA's guidance concerning the applicability of §173.3(e) to alternative leak mitigation systems.

Respectfully,

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