



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAY 01 2018

Ms. Kellie Toth
Sr. Hazmat/Accident Specialist
FedEx Custom Critical
1475 Boettler Road
Uniontown, OH 44685

Reference No. 17-0092

Dear Ms. Toth:

This letter is in response to your August 23, 2017, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers. You include a copy of a DataQ response letter from the Wisconsin Department of Transportation citing your company for incorrectly indicating the quantity and type of package on a shipping paper, as well as a copy of the shipping paper in question. You ask whether the shipping paper included with your letter conforms to the quantity and type of packaging provisions prescribed in § 172.202(a)(7).

The answer is yes. In accordance with § 172.202(a)(7), the shipping description of a hazardous material on a shipping paper must include the number and type of packages (e.g., "10 cylinders per box" and "5 fiberboard boxes") either before or after the required basic description. While it might not be in a format preferred by this Office, the shipping paper you provide does satisfy this requirement by placing a number (quantity) of packages directly under the applicable packaging in a heading of "BULK TOTE DRUM PAIL BOX." It is therefore the opinion of this Office that the shipping paper you include with your letter conforms to the requirements prescribed in § 172.202(a)(7).

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Stevens
§ 172.202(a)(7)
Shipping Papers
17-0092

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, August 24, 2017 9:46 AM
To: Hazmat Interps
Subject: FW: Interpretation letter
Attachments: 20170823100551334.pdf; 20170823092314874.pdf; 20170823094541679.pdf

Hi Alice,

Please see Kellie Toth's contact information below.

Kellie Toth
FedEx Custom Critical
1475 Boettler Rd
Uniontown, OH 44685
234.310.4087
234.310.4130 fax

Kellie Toth
Senior Hazmat/Accident Specialist
FedEx Custom Critical, Inc.

Thanks,
Jodi

From: INFOCNTR (PHMSA)
Sent: Thursday, August 24, 2017 9:36 AM
To: Hazmat Interps <hazmatinterps@dot.gov>
Subject: FW: Interpretation letter

Hi Alice,

Please submit this as a letter of interpretation. Let me know if you have any questions.

Thanks,
Jodi

From: Kellie Toth [<mailto:kellie.toth@fedex.com>]
Sent: Wednesday, August 23, 2017 10:12 AM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Interpretation letter

Good morning,

Please see the attached letter requesting an interpretation on 49 CFR 172.202(a)(7) and the supporting documentation.
Thank you

Kellie Toth

Senior Hazmat/Accident Specialist
FedEx Custom Critical, Inc.

CONFIDENTIALITY NOTE: This message and any attached files transmitted with it are intended for use only by the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law.

Kellie Toth

From: DataQs Desk <no-reply@dot.gov>
Sent: Tuesday, August 22, 2017 6:08 PM
To: Kellie Toth
Subject: DataQs 1757222 - Response Added

The following request was responded to by Hether, Alana (WI DOT SP)

ID #: 1757222
Report #: 2276003365

The status was updated. To view what the status means, visit [this frequently asked question](#).

Status prior to response: Open - Pending Officer Comments

Status after response: Closed - No Data Correction Made

Response Description:

The following are the comments of the inspecting officer: The number and type of package hazmat is shipped in must be listed. The shipping paper presented has a number listed under a general heading of "BULK TOTE DRUM PAIL BOX". There is no delineation for what the number is in reference to. The inspector would have to assume what the package type would be which would hinder emergency response which is the whole purpose of the hazmat shipping paper.

This data review request is now closed with no correction made.

This automated email was sent from the Federal Motor Carrier Safety Administration's DataQs system.

If you login to the DataQs system directly, please go to <http://dataqs.fmcsa.dot.gov> to view this request and to respond.

If you login to the DataQs system via the FMCSA's Portal, please go to <http://portal.fmcsa.dot.gov> to view this request and to respond.

SHIPPER PROVIDED SHORT FORM BILL OF LADING & INTERMODAL CERTIFICATION FROM: _____
Not negotiable - Domestic

All parties hereto and their assigns are familiar with, and agree, that this bill of lading is subject to: (1) the contract terms and conditions of the Uniform Domestic Straight Bill of Lading as set forth in the National Motor Freight Classification, and (2) the applicable lawfully filed tariffs and classifications in effect as of the date hereon.
CONTAINER PACKING CERTIFICATE DECLARATION: It is declared that the packaging of goods into the container/vehicle has been carried out in accordance with the applicable provisions of 49CFR and the IMDG Code.

NOTE: Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding: _____

SHIPPER'S BIL NO. **0808B34360**
 AT LOAD ID NO. **0808B34360**
 LOC. **0808 DELAWARE** , OR **43015** **08-07** **17**

SHIPMENT REFERENCE NO. **42729** PAGE **01** OF **01**

PHONE _____ CUSTOMER ORDER NO. AND RELEASE NO **26498**

CONSIGNEE TO: _____ DELIVERY DATE: **00-00-00** Charge to: _____
 FREIGHT COLLECT Subject to Section 7 of conditions of applicable Bill of Lading, if this shipment is to be delivered to the consignee without recourse on the consignee, the consignee shall sign the following statement:
 IF PREPAID, MAIL FREIGHT BILL AND COPY 2 OF BILL-OF-LADING TO. The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.
 Dun Number: _____
 CARRIER: **FEDEX CUSTOM CRI** CAR/VEHICLE INTL NO. _____
 (Signature of consignor)

ORDER/INVOICE NUMBERS: **72715-01-01-01/78850**

QUANTITY	***** GROUND SHIPMENT *****	weight in LBS (Sub. to Corr.)
BULK TOTE DRUM PAIL BOX	DESCRIPTION OF ARTICLES	FLACARD NON FLACARD
4	UN1760 CORROSIVE LIQUID, N.O.S. 8 PGII (NOS: 2-Dimethylaminoethanol)	9,340
TOTAL PIECES: 4		WEIGHT BY COLUMN: 9,340 0
NUMBER OF PALLETS:	WEIGHT: LBS	TOTAL WEIGHT OF SHIPMENT: 9,340 LBS

SPECIAL INSTRUCTIONS: . . . PROTECT FROM FREEZING . . .
 OFFER 4 Corrosive - Class 8 PLACARDS WITH UN1760

AUG 9 2017

SUBJECT TO WT. AND COUNT

Mark Colborn

This is to certify that the above-named materials are properly classified, packaged, marked, and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

FOR HELP IN EMERGENCIES INVOLVING SPILL, FIRE, LEAK, EXPOSURE CALL CHEMTREC Call Toll Free 1-800-424-9300 or Call Collect 1-703-527-3887

DRIVER'S SIGNATURE INDICATES APPLICABLE D.O.T. PLACARDS WERE OFFERED, EMERGENCY RESPONSE INFORMATION IS IN THE VEHICLE AND IMMEDIATELY ACCESSIBLE, AND VEHICLE IS PROTECTED AND BRACED IN ACCORDANCE WITH 49 CFR SECTION 177.334

Permanent post-office address of shipper, **760 PITTSBURGH DRIVE**, DELAWARE, OR **43015**
BRYAN DROCKY 8/8/17
 RECEIVED IN APPARENT GOOD ORDER-EXCEPTIONS NOTED. Carrier, *[Signature]*

FedEx®

Custom Critical

August 23, 2017

U.S. DOT

PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

To: U.S. DOT PHMSA Office of Hazardous Materials.

I would like to obtain a letter of interpretation in regards to 49 CFR 172.202(a)(7). The section states that on a bill of lading the number and type of packages must be indicated. It further states that the type of packaging must be indicated by description of the package. It then provides some examples of how these required items can be listed on a bill of lading to meet this requirement, however it does not state a specific form and manner is required.

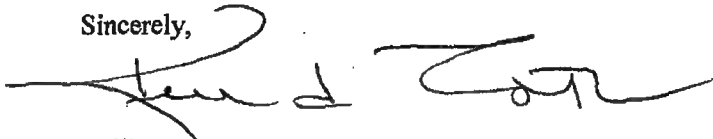
I am including a copy of a hazardous materials bill of lading that was created by a shipper where FedEx Custom Critical was issued a violation in regards to how the shipper listed the number of packaging and type of container. The shipper lists the type containers they use for transport, i.e. bulk, tote, drum, pail or box as general headers on the bill of lading. The shipper then notes directly below the packaging type header the quantity being shipped. In this particular case it was 4 tote tanks.

The inspector issued a violation against 49 CFR 177.801 for accepting or transporting hazardous materials not prepared in accordance with regulations. The inspector further stated the type of hazardous materials is not listed on the hazardous materials paperwork in accordance with 172.202(a)(7). The inspector advised our driver that the word "tote" and number 4 should have been circled to designate what was being shipped. FedEx Custom Critical entered a DATAQ challenge stating that the required information was listed on the bill of lading in accordance with 172.202(a)(7), please see attached bill of lading for reference.

Wisconsin DOT has denied the challenge stated the format used on the bill of lading by the shipper does not meet the requirement of 172.202(a)(7). Included is a copy of the DATAQ denial from the Wisconsin Department of Transportation.

Hazardous materials bill of lading do not have a specific format an offeror must follow when creating a bill of lading. Each offeror of hazardous materials completes their bill of lading in a different manner to achieve compliance in the paperwork section of the 49 CFR. Can you please review the bill of lading I have included and provide clarification if this format used by the shipper does in fact meet the requirement in 49 CFR 172.202(a)(7)?

Sincerely,



Kellie Toth
FedEx Custom Critical
Sr. Hazmat/Accident Specialist