



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, D.C. 20590

Pipeline and Hazardous
Materials Safety Administration

JUL 24 2007

Mr. Steve J. Catania
Regulatory Compliance Manager
Charkit Chemical Corporation
32 Haviland Street
P.O. Box 90
South Norwalk, CT 06854

Ref. No.: 07-0133

Dear Mr. Catania:

This is in response to your letter dated June 28, 2007, regarding the definition of a hazardous substance under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you state that an inspector advised you that reportable quantities, (RQ) are determined on a per package basis and that packages banded together on a pallet are collectively added to determine the RQ value. Specifically, you ask whether the RQ is determined on a per package, pallet, or shipment basis.

Under § 171.8, a hazardous substance is defined as a material including its mixtures and solution, that (1) is listed in the list of Hazardous Substances and Reportable Quantities, in § 172.101, Table 1 to Appendix A of the HMR; (2) is in a quantity, in one package, which equals or exceeds its reportable quantity; and (3) is in a concentration by weight which equals or exceeds the concentration corresponding to the RQ of the material, as shown in the table under § 171.8. A material with a RQ of 1 pound (e.g., PCBs) is a hazardous substance, when at least 1 pound of that material is contained in the mixture per package and the concentration by weight of the material in the mixture equals or exceeds 0.002 percent (20 ppm).

The RQ must be met or exceeded in a quantity per package. Therefore, the definition of a hazardous substance does not include the aggregate of packages placed or stacked onto a load board such as a pallet and secured by strapping, shrink wrapping, stretch wrapping, or other suitable means for convenience in handling of a package or to consolidate two or more packages.

I trust this satisfy your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Charles E. Betts
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



070133

171.8
172.101 Table 1
App. A

Drakeford, Carolyn <PHMSA>

Drakeford

From: INFOCNTR <PHMSA>
Sent: Monday, June 25, 2007 10:37 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Information Center Comments/Questions

§ 171.8

Definitions
07-0133

-----Original Message-----

From: Scatania@Charkit.com [mailto:Scatania@Charkit.com]
Sent: Friday, June 22, 2007 6:39 PM
To: INFOCNTR <PHMSA>
Subject: Information Center Comments/Questions

Below is the result of your feedback form. It was submitted by Steve Catania (Scatania@Charkit.com) on Friday, June 22, 2007 at 18:39:08.

Email: Scatania@Charkit.com

Name: Steve Catania

Category: Hazardous Materials Table, Special Provisions, Hazardous Materials Communications

Phone: 203-299-3262

Comments: Regarding Reportable Quantities ("RQ"), the 49 CFR is unclear to me if this quantity is determined on a per package, per pallet, or per shipment basis. When we had a DOT inspector visit, the inspector told me that the RQ quantity is per package. Can you confirm if the RQ quantity thresholds indicated in Appendix A of Part 172 is per package? Can you show me where in the regulations it states information?

Additionally, the DOT inspector stated that any materials shrink wrapped on a pallet is considered an "overpack" and therefore is defined as one package and qualifies the total weight of the pallet towards the RQ threshold. Is this true? Can you show me where in the regulations it states this?

Can I receive an official letter of interpretation from the DOT answering these questions?

I look forward to your response.

Best regards,

Steve Catania

Charkit Chemical Corporation

32 Haviland Street, P.O. Box 90, South Norwalk, CT 06854
203-299-3220 • Fax: 203-299-1355
www.charkit.com • e-mail: sales@charkit.com

Drakeford
§171.8
Definitions
07-0133

June 28, 2007

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building
2nd Floor
Washington, DC 20590

Dear Mr. Edward T. Mazzullo:

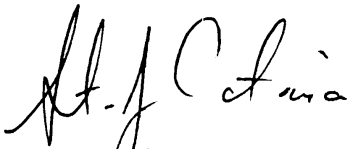
I am writing to your office for an official interpretation on the Reportable Quantities of the 49 CFR. The regulation found in part 172.101 App. A doesn't clarify how the reportable quantity is determined. It is unclear to me if the reportable quantity is on a per package, per pallet, or per shipment basis.

In March of 2006, DOT conducted an audit of our headquarters and one of our public warehouses. In that audit, the inspector advised us that reportable quantities are determined per package size but that all packages banded together on a pallet ("over packs") are collectively added and qualify against the RQ value. I could not validate his declaration using the 49 CFR.

Therefore, can you provide Charkit with an official letter of interpretation regarding the determination of reportable quantities?

I look forward to receiving your interpretation and if you have any questions regarding my request, please feel free to contact me at 203-299-3262.

Sincerely,



Steve J. Catania
Regulatory Compliance Manager
CHARKIT CHEMICAL CORPORATION