



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

OCT 23 2008

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

Mr. Kurt Knaack
President
Berger Brothers, Inc.
1176 N. Cherry Avenue
Chicago, IL 60622

Ref. No.: 08-0169

Dear Mr. Knaack:

This responds to your letter regarding the applicability of training requirements of Subpart H of Part 172 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments of charcoal reclassified as Consumer commodity, ORM-D.

According to your letter, Berger Brothers, Inc., a distributor of charcoal, received a Notice of Probable Violation for failure to meet the training requirements in Subpart H of Part 172 of the HMR. You state that your company receives the charcoal already packaged and the product is stored in your warehouse and distributed to various stores and industrial companies. Your supplier advised you that based on test results conducted in 2006, charcoal is not regulated as a hazardous material. You ask if your supplier is correct that charcoal is not regulated as a hazardous material.

Provided the tests conducted in 2006 indicate or prove that your supplier's product (charcoal) is not a hazardous material in accordance with any of the classification criteria (e.g., for Class 4) in the HMR, it is not subject to the requirements of HMR and not regulated for purposes of transportation in commerce. If this is the situation, the charcoal should not be described as a Consumer commodity, ORM-D. Therefore, a shipper would not be required to comply with the training provisions contained in Subpart H of Part 172.

I hope this information is helpful. If we can be of further assistance, please contact us on (202) 366-8553.

Sincerely,

Susan Gorsky
Acting Chief, Standards Development
Office of Hazardous Materials Standards

BERGER BROTHERS, INC.

CHARCOAL

1176 N. CHERRY AVENUE
CHICAGO, IL 60622

Engrum
§ 173.151(c)
§ 172.600
Consumer Commodity
08-0169

U.S. Department of Transportation
2300 E. Devon Ave. Suite 478
Des Plaines, IL 60018

Re: Notice of Probable Violations: Report Control # 08432

To Whom It May Concern:

Is letter is in response to Berger Brothers, Inc. notice of Probable Violations. Robert Quillinan from above offices, wrote up report of Probable Violation. He stated charcoal is a hazardous material, and anyone handling charcoal must be trained how to handle hazardous materials.

Berger Brothers, Inc. is a distributor of charcoal. Product comes to us already packaged, we warehouse and distribute to Hardware stores, liquor and grocery stores, and other industrial companies. The manufacturer, Royal Oak Interprises, LLC, offices located in Roswell, GA., states their charcoal products are non hazardous. Charcoal is classed as COMSUMER COMMODITY ORM-D per Code of Federal Regulations 49CFR 173.151(c). The ORM-D Classification does not require and is exempt from shipping paper, label, and placard requirements. Therefore, the Emergency Response Information does not apply to shipments of charcoal and charcoal lighter fluid per Code of Federal Regulations 49DFR172.600(d).

With this information from manufacturer, I assumed we did not have hazardous product, and no further training in hazardous materials was needed, due to charcoal not needing any hazardous labeling.

As per conversation with Robert Quillinan that day, I have since purchased: Hazardous Materials Transportation Training Modules. I just received CD in mail, and have completed Module 1 , test summary attached, Upon completion of testing, I will follow up with other employees.

All of our shipments have been going out with info on bill of ladings:

No placards required, ORM-D, Comsumer Commodity
49CFR 173.151 (c), 173.150(c) , 172.600 (d) Chemtrec 800-424-9300

The same info on shipments from manufacturer to us.

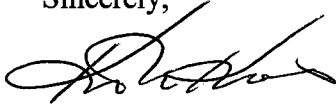
Charcoal we distribute can be eaten, its used to have people swallow to rid overdoses from people's stomach, its used as a soil sweetener to promote growth, its used in dog food and bones for carbon needed in their diets, its used in filtering contaminates from water in paper mills, digestive aid in animal feed, and of course, cooking on your outdoor grill.

I hope upon your review, Berger Brothers, Inc., is correcting the problem Mr. Quillinan states in his report. We believe we were handling a non hazardous material, and no further training was needed. Training is now in progress.

Attached is a letter from ROYAL OAK ENTERPRISES,LLC, that I received today. They state thru tests in 2006, the results allowed them to remove the "Consumer ORM-D" status from their products, therefore, they are not hazmat regulated for transportation.

Could someone at DOT inform me what I am to do?

Sincerely,

A handwritten signature in black ink, appearing to read "K. Knaack", written in a cursive style.

Kurt M. Knaack
President
Berger Brothers, Inc.
1176 N. Cherry Ave.
Chicago, IL 60622
312-642-4238

From: Ralph Carroll (rcarroll@royal-oak.com)
To: bergerbros2@sbcglobal.net
Date: Friday, June 13, 2008 12:16:23 PM
Cc: Brian Bergen
Subject: Classification of charcoal and Lighter Fluid

*From:
Royal
Oak
Enterprises*

Dear Mr. Knaack,

I understand that an inspector from the DOT visited your facility and highlighted probable violations with your companies handling of charcoal and lighter fluid. I am responding to give you information so that you may respond to them.

Charcoal and lighter fluid were previously classified as "Consumer ORM-D" which meant that it had specific guidelines to follow. In 2006, Royal Oak had its product tested for self heating according to UN and DOT requirements. The test results allowed us to remove the "Consumer ORM-D" status from our products and therefore, they are not hazmat regulated for transportation.

Please let me know if you need any additional information.

Best Regards

Ralph Carroll
Logistics Manager
Royal Oak Enterprises LLC
One Royal Oak Ave.
Roswell, GA 30076
P - 678-461-3200 x 3352
F - 678-461-3234
Rcarroll@royal-oak.com

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From: hazreg@volpe.dot.gov (hazreg@volpe.dot.gov)
To: BERGERBROS2@SBCGLOBAL.NET
Date: Friday, May 16, 2008 10:50:09 AM
Subject: Order Confirmation; Office of Hazardous Materials Safety - Training and Publication

This will confirm that you submitted an order over the Internet to the Hazmat Training Materials and Publications On-Line service of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Hazardous Materials Safety on 5/16/2008.

Order 73227 Summary

Publication	Price	Qty	Total Amount

HAZMAT TRANSPORTATION TRAINING MODULES 5.1	\$25.00	1	\$25.00

Order Reference Number: 48951
Order Number: 73227
Amount Paid: \$25
Credit/Debit Card Number: *****4695
Name on Credit/Debit Card: KURT MICHAEL KNAACK

Thank you for ordering on-line.

Office of Hazardous Material Safety
U.S. Department of Transportation
202-366-2301

5/28/08
KUTZ

Module 1 - Test Summary

You have completed the Module 1 Test. You answered 24 questions correctly out of the 25 presented, for a score of 96 percent correct.


Shown here is your level of proficiency on each of the 4 learning objectives, expressed as a percentage.

92%	Identify information about a particular hazardous material, such as the hazard class or number, packing group, label codes, and other special provisions from the Hazardous Materials Table. (13 questions evaluate this objective.)
95%	Apply your understanding of the Hazardous Materials Table to identify the proper shipping name for a hazardous material and the basic description for a shipment of that hazardous material. (10 questions evaluate this objective.)
100%	Define a hazardous substance and indicate the reportable quantities of that hazardous substance from the information provided in Table 1 and Table 2 to Appendix A of the Hazardous Materials Table. (6 questions evaluate this objective.)
100%	Identify marine pollutants and severe marine pollutants using Appendix B of the Hazardous Materials Table. (4 questions evaluate this objective.)

Listed below are the questions from the Module 1 Test. The questions that you answered correctly are marked with a green checkmark (✓), while those questions that you answered incorrectly are marked with a red X (✗).

✓	Question #1	Which of these tables are important resources for the hazmat employee to be able to successfully complete their packaging, marking, labeling, and hazardous materials responsibilities?
✓	Question #2	"Dichlone" in a one-pound (net weight) package is regulated as a _____.
✗	Question #3	The packaging requirements for the proper shipping name "Flammable solid, inorganic, n.o.s., 4.1, UN3178, PGII" are found in _____ of the HMT.
✓	Question #4	When determining the basic description for "Compressed gas, toxic, n.o.s., Hazard Zone A", what is the correct hazard class or division that should be used?
✓	Question #5	The "+" sign in Column 1 of the HMT _____.
✓	Question #6	Copra is regulated when transported by _____.
✓	Question #7	The hazard class or division for "Rags, oily" is _____.
✓	Question #8	What is the packing group for Ethyl chloroacetate?
✓	Question #9	The bulk packaging authorization requirements for "Nitrous oxide" is four _____.
✓	Question #10	The proper shipping name for a hazardous material is found in _____ of the HMT.

✓	Question #11	A shipment of "Ammonium acetate" with an aggregate gross weight of 7, is regulated as a _____.
✓	Question #12	What is the identification number for Cotton, from the HMT?
✓	Question #13	The letter "W" in Column 1 of the HMT means the entry regulates the off-transport or transportation of the material _____, unless the material is a hazardous substance or hazardous waste.
✓	Question #14	The packaging exceptions for the proper shipping name " Ferric nitrate" are _____ of the HMT.
✓	Question #15	A 110-pound (net weight) package of "Aluminum phosphide" is regulated as a _____.
✓	Question #16	What is the proper shipping name for " <i>Sodium hypochlorite, solution</i> "?
✓	Question #17	The hazardous material "Boron tribromide, UN2692" is forbidden to be transported by _____ mode(s) of transportation.
✓	Question #18	A ten-pound package of "Fluorine" is regulated as a hazardous substance by _____ mode(s) of transportation.
✓	Question #19	Which of these proper shipping names is an acceptable alternative for the proper shipping name "Petroleum gases, liquefied"?
✓	Question #20	What do the letters "RQ" represent, that are displayed in Table 1 to Appendix A of the HMT?
✓	Question #21	The hazard class or division for the proper shipping name "Cartridges, snuff" is _____.
✓	Question #22	Which of these four marine pollutants is NOT classified as a Severe Marine Pollutant?
✓	Question #23	If a liquid marine pollutant is not listed by name in the §172.101 Hazardous Materials Table, then it must be offered for transportation on the shipping paper as _____.
✓	Question #24	The substances DDT, EPN, and PCBs all have what in common?
✓	Question #25	What is the identification number for the proper shipping name "Nicotine"?


 \$1
\$1

**STRAIGHT BILL OF LADING-SHORT FORM
NOT NEGOTIABLE**

SHIPPER'S NO. 044082937

CARRIER: **ESTES EXPRESS LINES**

CARRIER'S NO. _____

RECEIVED, SUBJECT TO INDIVIDUALLY DETERMINED RATES OR CONTRACTS THAT HAVE BEEN AGREED UPON IN WRITING BETWEEN THE CARRIER AND SHIPPER, IF APPLICABLE, OTHERWISE TO THE RATES, CLASSIFICATIONS AND RULES THAT HAVE BEEN ESTABLISHED BY THE CARRIER AND ARE AVAILABLE TO THE SHIPPER, ON REQUEST.

AT **SALEM , MO 65560** DATE **06/02/2008** FROM **ROYAL OAK ENTERPRISES, LLC**

THE PROPERTY DESCRIBED BELOW, IN APPARENT GOOD ORDER, EXCEPT AS NOTED (CONTENTS AND CONDITION OF CONTENTS OF PACKAGES UNKNOWN) MARKED, CONDITIONED, AND DESTINED AS SHOWN BELOW, WHICH SAID CARRIER AGREES TO CARRY TO DESTINATION. IT IS MUTUALLY AGREED, THAT EVERY SERVICE TO BE PERFORMED HEREUNDER SHALL BE SUBJECT TO ALL THE TERMS AND CONDITIONS OF THE UNIFORM BILL OF LADING SET FORTH IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION. THE SHIPPER HEREBY CERTIFIES THAT HE/SHE IS FAMILIAR WITH ALL THE TERMS AND CONDITIONS OF THE SAID BILL OF LADING, INCLUDING THOSE ON THE BACK THEREOF, AND THE SAID TERMS AND CONDITIONS ARE HEREBY AGREED TO BY THE SHIPPER AND ACCEPTED FOR HIM/HERSELF AND HIS/HER ASSIGNS.

CONSIGNEE TO: (CITY,STATE,ZIP)	CUSTOMER ORDER NO.	AGENT NO.	SALES ORDER NUMBER
CHARCOAL SUPPLY,CHICAGO 1176 N. CHERRY AVENUE CHICAGO IL 60622	SAMPLES NMFC 42470 SUB 2 42480	031810 CLASS 77.5 77.5	V03399

ROUTE:	SEALS
CAR NO. _____	TRAILER NO. 537351
CONSUMER COMMODITY ORM-D, NO SHIPPING PAPER, LABELS, OR PLACARDS REQUIRED.	
49CFR173.151(C), 173.150(C),172.600(D)	
FOR EMERGENCY RESPONSE INFORMATION CALL: CHEMTREC 1-800-424-9300	

NUMBER OF PALLETS	NUMBER OF PACKAGES	COMMODITY	BRAND NAME	SIZE	WEIGHT
1	56	CHARCOAL-BRIQUETS	ROYAL OAK	1/18	1036
0	5	CHARCOAL-BRIQUETS	CHEF'S SELECT	1/20	105
3	144	CHARCOAL-BRIQUETS	OLD HICKORY	1/20	3024
2	70	CHARCOAL-WOOD(LUMP)	ROYAL OAK LUMP	1/20	1470
1	5	CHARCOAL-WOOD(LUMP)	BIG GREEN EGG	1/20	105
7	280				
				TOTAL WEIGHT OF COMMODITY	5740
				TOTAL WEIGHT OF PALLETS	490
				TOTAL WEIGHT OF SHIPMENT	6230

SUBJECT TO SECTION 7 OF THE CONDITIONS OF APPLICABLE BILL OF LADING. IF THIS SHIPMENT IS TO BE DELIVERED TO THE CONSIGNEE WITHOUT RECOURSE ON THE CONSIGNOR, THE CONSIGNOR SHALL SIGN THE FOLLOWING STATEMENT.
THE CARRIER SHALL NOT MAKE DELIVERY OF THIS SHIPMENT WITHOUT PAYMENT OF FREIGHT AND ALL OTHER LAWFUL CHARGES.

(SIGNATURE OF CONSIGNOR)
FREIGHT CHARGES ARE:
PREPAID

ON PREPAID SHIPMENTS BILL CHARGES TO SHIPPER: PERMANENT ADDRESS:
**ROYAL OAK ENT.
1 ROYAL OAK AVE
ROSWELL, GA.
30076
(678) 461-3200**

SPECIAL INSTRUCTIONS

IF THIS FREIGHT IS DELAYED FOR ANY REASON NOTIFY SHIPPER AT ONCE.

CUSTOMER PICK UP
SIGNATURE BELOW IS CERTIFICATION THAT THE CONTENTS OF THIS LOAD HAVE BEEN VERIFIED AND AGREES WITH THOSE SHOWN ON THIS BILL OF LADING.
----- N/A -----
SIGNED _____ DATED _____

CUSTOMER RECEIVES USED PALLETS

THIS IS TO CERTIFY THAT THE ABOVE NAMED MATERIALS ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED AND LABELED AND ARE IN PROPER CONDITION FOR TRANSPORTATION ACCORDING TO THE APPLICABLE REGULATIONS OF THE U.S. DEPARTMENT OF TRANSPORTATION AND THE CANADIAN TRANSPORT COMMISSION.