



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

FEB 11 2016

Mr. Michael Kitchens  
Howard Sheppard, Inc.  
P.O. Box 797  
Sandersville, GA 31082

Ref. No. 15-0063

Dear Mr. Kitchens:

This is a response to your March 27, 2015 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) with regard to the closures of packagings. Specifically, you request clarification whether loading and unloading equipment (i.e. the hose and hose tray) that is unattached to a DOT specification cargo tank is considered a packaging and thus required to meet the closure requirements in § 173.24(f)(1). In your letter, you state that during a commercial motor vehicle inspection you were issued a violation due to material leaking from a hose, which is used to load and unload product, into a hose tray used to store the hose on the vehicle. In this scenario, the vehicle was a DOT Specification 407 cargo tank transporting "UN1830, Sulfuric Acid."

It is the opinion of this Office that the unattached hose used for loading and unloading of hazardous materials and the hose tray used to hold that hose during transportation are not considered a packaging. As defined in § 171.8, a packaging means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packing requirements of the HMR. Therefore, this equipment is not subject to the packaging closure requirements in § 173.24(f)(1).

I hope this information is helpful. If you have any more questions, please do not hesitate to contact this office.

Sincerely,

Dirk Der Kinderen  
Chief, Standards Development  
Standards and Rulemaking Division

**Goodall, Shante CTR (PHMSA)**

Suchak  
173.24  
Packaging General  
15-0063

**From:** Ciccarone, Michael CTR (PHMSA)  
**Sent:** Friday, March 27, 2015 2:50 PM  
**To:** Hazmat Interps  
**Subject:** FW: Interpretation of Hazardous Materials Regulations Request  
**Attachments:** Interpretation Letter.pdf; DataQs\_Request\_996304.pdf; Inspection report.pdf; IMG\_0066.JPG; IMG\_0065.JPG

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

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**From:** Michael Kitchens [<mailto:mkitchens@howardsheppard.com>]  
**Sent:** Friday, March 27, 2015 9:35 AM  
**To:** PHMSA HM InfoCenter  
**Subject:** Interpretation of Hazardous Materials Regulations Request

I have attached a letter for an official interpretation of the Hazardous Materials Regulations as it pertains to cargo tanks and packagings. I have also attached a copy of the inspection report showing the violation of the regulation and the Data Q challenge and response that I am requesting the interpretations on. I have attached two photos that show the hoses and hose tray, the hoses were in the tray at the time of inspection.

*Michael Kitchens  
Safety Director  
Howard Sheppard, Inc.  
P.O. Box 797; Sandersville, Georgia 31082  
Office: 478-552-5127 Ext.1270  
Toll Free: 800-846-1726  
Cell: 478-357-2302  
Email: [mkitchens@howardsheppard.com](mailto:mkitchens@howardsheppard.com)*



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E-Mail: [mkitchens@howardsheppard.com](mailto:mkitchens@howardsheppard.com)

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

Re: Interpretation of the Hazardous Materials Regulations 173.24(f)(1) as it pertains to a 407 Cargo Tank.

Dear Sir/Madam:

We received a commercial vehicle inspection on February 25, 2015 in South Carolina by the South Carolina State Transport Police and were issued a violation for 173.24(f)(1). The violation stated "Trailer-closures for packagings must not be open or leaking (leaking from fill hoses in side of trailer)". Our driver was placed out of service for this violation. I would also like to mention the fact that it was raining and that the officer never tested the liquid to confirm if it was product or rain water. We also applied neutralizer to the area where the product was reported to have leaked and there was no reaction. The product we were transporting at the time of inspection was Sulfuric Acid, UN1830. The product was being transported in a 407 Cargo Tank. I submitted a Data Q and requested the violation be removed. On March 18, 2015 I received a reply from the South Carolina State Transport Police denying the challenge. Their reply was that, "when the hose leaks into the tray, the tray becomes the package and can not leak". The hose tray is designed with drain holes and a drain pipe to allow it to drain. I have attached copies of the original inspection report, the Data Q, the response from SC State Transport Police, and photographs.

I have two questions I would like an official interpretation on to assist me in this manner.

Question # 1

Is a hose used for loading and unloading product which is not attached to the cargo tank it self, but is laying in a hose tray on the side of the trailer considered a package requiring closures under CFR 173.24(f)(1)?

Question # 2

Is the tray which is attached to the side of the trailer and designed to store hoses considered a package under the Hazardous Materials Regulations?

I would appreciate any assistance you could provide in this matter with interpreting the cited regulation. If this is in fact a violation, we may need to review our procedures for transporting hoses in a hose tray.

Regards,

A handwritten signature in black ink, appearing to read 'M. Kitchens', with a long horizontal line extending to the right.

Michael Kitchens, Safety Director



State Transport Police  
PO Box 1993  
http://www.scdps.org --- http://fmcsa.dot.g  
Blythewood, SC 29016  
Phone: (803)896-5500 Fax: (803)896-5526

Report Number: SCM255001151  
Inspection Date: 02/25/2015  
Start: 1:20:00 PM ET End: 3:07:24 PM ET  
Inspection Level: II - Walk-Around  
HM Inspection Type: Bulk

HOWARD SHEPPARD INC  
755 WACO DRIVE  
SANDERSVILLE, GA 31082-0797  
USDOT#: 00092818 Phone#: (478)552-5127  
MC/MX#: 133920 Fax#:   
State#:

Driver: TANNER, GARY J  
License#: 004552750 State: GA  
Date of Birth: 05/05/1958  
CoDriver:   
License#: State:   
Date of Birth:

Location: I-95 NB DORCHESTER COUNTY MilePost: Shipper: SOUTHERN STATES CHEMICAL  
Highway: Origin: SAVANNAH, GA Bill of Lading: 20167306  
County: DORCHESTER, SC Destination: ORANGEBURG, SC Cargo: N - HAZARDOUS MATERIALS

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TT	INTL	2015	GA	IC13PM	1909	3HSDJAPR0FN021785	52,350			
2	ST	POLA	2014	GA	LE53511	AT343	1PMS34226E1043759	68,000			M255001151

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
173.24F1	173.24(f)(1)	2	Y	w472234	U	N	TRAILER - Closures for packagings must not be open or leaking ( Leaking from fill hoses in side of trailer )

HazMat: 8 Corrosive material Placard: Yes Cargo Tank: 407

Special Checks: No Data for Special Checks.

State Information:

CDL Check: Y; Driver Mailing Address: PO 753; Driver City, State, Zip: SANDERSVILLE GA , 31082; Driver Race: W; Driver Sex: M;

Pursuant to the authority contained in Title 49, CFR; Section 396.9 of the Transportation Rules/Regulations. I hereby declare the above marked vehicle(s)/driver as "OUT OF SERVICE". No person shall remove the Out of Service Stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

Failure to return this report with the required certification can result in penalties up to \$1,000 per day for each day the violation continues, up to a total of \$10,000.  
Signature Of Repairer X: *[Signature]* Facility: *Roadside* Date: *2/25/15*

CARRIER CERTIFICATION: The undersigned certifies that all violations on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations insofar as they are applicable to motor carriers and drivers. This certification MUST BE SIGNED by the Motor Carrier and RETURNED WITHIN 15 days to the: South Carolina State Transport Police, P.O. Box 1993, Blythewood, South Carolina 29016.

Signature Of Motor Carrier X: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Report Prepared By: ZA MILLSAP  
Badge #: 255  
X *[Signature]*

Copy Received By: GARY TANNER  
X *[Signature]*



00092818 SC SCM255001151





