U.S. Department
of Transportation

Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 0 3 2017

Scott A. Porter
Senior Project Scientist
ERM
555 17th Street, Suite 1700
Denver, CO 80202

Reference No. 16-0144

Dear Mr. Porter:

This letter is in response to your August 19, 2016, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to determining the reportable quantity (RQ) of a hazardous substance. You provide a scenario in which nickel powder with a mean particle size of 101.1 micrometers is being shipped in a packaging totaling 1 metric ton. Specifically, you ask whether the mean particle size can be used to determine if the nickel powder meets the RQ of a hazardous substance or whether the amount of nickel powder with a particle size exceeding the threshold size (i.e., 100 micrometers) must be determined.

The answer is no; the mean particle size cannot be used to determine if the nickel powder meets the RQ. When determining whether a material in a package meets the RQ listed in Table 1 to Appendix A of § 172.101 (i.e., the hazardous substances table), the actual particle size must be used. The "¢" symbol associated with the entry "Nickel" in Table 1 denotes that the RQ is limited to metal particles having a diameter smaller than 100 micrometers. To meet the RQ for nickel, a package containing nickel must contain at least 100 pounds of nickel particles less than 100 micrometers. Based on the information you provided, we cannot determine whether your shipment meets the definition of a hazardous substance.
I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Accarone
§ 172.101
Hazardous Substances
16-0144

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, August 19, 2016 4:34 PM
To: Hazmat Interps
Subject: FW: Request for interoperation

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Porter spoke with Eamonn.

Please let me know if you have any questions.

Thanks,
Jordan

From: Scott Porter [mailto:Scott.Porter@erm.com]
Sent: Friday, August 19, 2016 2:01 PM
To: INFOCNTR (PHMSA)
Subject: Request for interoperation

Dear Sir or Madam,

When shipping one metric ton sacks of nickel powder with a mean particle size of 101.1 µm, How must RQ requirements be calculated? The nickel powder does not meet any standard hazard classes however nickel with a particle size equal or less than 100 µm is listed as having an RQ of 100 pounds. Can the determination of whether the shipment meets RQ requirements be based on the representative mean particle size? i.e. Since the mean particle size is greater than 100 µm the nickel RQ is not relevant. Or must the actual nickel content with a particle size of 100 µm or less be determined to calculate the weight at which RQ limits are reached or exceeded? i.e. 40% of the nickel powder is 100 µm or less thus any packages weighing 250lbs or more meets the requirement to classify as hazardous due to meeting or exceeding the RQ in Table 1 of Appendix A of 172.101.

Regards,
Scott Porter

Scott A. Porter

Senior Project Scientist

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