



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

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

OCT 22 2010

Ms. Jennifer Kaczmarczyk
LTL and Consolidation Consultant
C.H. Robinson-Ann Arbor Branch
10559 Citation Drive, Suite 201
Brighton, MI 48116

Reference No. 09-0158

Dear Ms. Kaczmarczyk:

This is in response to your e-mail requesting clarification of the Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers and packages of lithium, wet alkali, and non-spillable wet acid batteries. We have paraphrased your questions and answered them in the order you provided. We apologize for the delay in responding and any inconvenience this may have caused.

Q1. When batteries of various sizes described as “UN 2795, Batteries, wet, filled with alkali, 8 (corrosive), PG III” are placed in boxes and shrink wrapped to a pallet, do the HMR require the number of packages per pallet to be itemized on the shipping paper?

A1. No, including the number of packages on the pallet is not required. Generally, an indication of a “skid” or “pallet” as a package type on a shipping paper is prohibited because skids and pallets are typically considered overpacks and not packages under the HMR. However, § 173.159(d)(1) authorizes electric storage batteries firmly secured to a skid or pallet, and § 173.159(d)(2) authorizes electric storage batteries firmly secured to a skid as types of packagings for alkali batteries packed without other materials provided the requirements of § 173.159(a) are met. For transportation by aircraft, the requirements of § 173.159(b) also apply.

Under § 172.202(a)(7), you must provide the number and type of hazardous materials packages on the shipping paper. Therefore, for your palletized shipments of alkali batteries prepared in conformance with § 173.159(d)(1), you may enter “1 pallet” or “1 skid,” as applicable, and for those shipments prepared in conformance with § 173.159(d)(2), you may enter “1 skid,” or similar terminology to represent the number and type of batteries you describe. In accordance with § 172.202(a)(5), you must also provide the total quantity of hazardous materials contained in the shipment. Net or gross mass or the number of batteries would be an appropriate description of the total quantity. An example of a shipping paper entry for a palletized shipment of wet alkali batteries weighing 200 pounds (lbs) and shipped under § 173.159(d)(1) is:

- “UN 2795, Batteries, wet, filled with alkali, 8, PG III, 1 pallet, 200 lbs.”

Q2. When lithium batteries of various sizes described as “UN 3090, Lithium batteries, 9 (miscellaneous), PG II” are placed in boxes and shrink wrapped to a pallet, do the HMR require the number of packages per pallet to be itemized on the shipping paper?

A2. Pallets and skids are considered “overpacks” for lithium batteries with a gross weight of 12 kilograms (kg) (26.5 pounds) or less. See §§ 171.8 (overpack) and 173.185(g). Therefore, the number and type of packages containing these types of lithium batteries per pallet must be itemized on the shipping paper. An example of a shipping paper entry for a shipment of lithium batteries with a gross weight of 12 kg or less when the entire shipment weighs 200 pounds is:

- “UN 3090, Lithium battery, 9, PG II, 4 boxes, 200 lbs.”

The HMR specify that lithium batteries employing a strong, impact-resistant outer casing and a gross weight that exceeds 12 kg may be packed in strong outer packagings, protective enclosures (for example, in fully enclosed wooden slatted crates), or on pallets. See § 173.185(g). This section also requires that the batteries must be secured to prevent inadvertent movement, and the terminals may not support the weight of other superimposed elements. Batteries packaged in this manner may be transported by highway, rail, and vessel, but not passenger aircraft, and may be transported by cargo aircraft only if approved by the Pipeline and Hazardous Materials Safety Administration’s Associate Administrator for Hazardous Materials Safety prior to transportation. Examples of shipping paper entries for shipments of lithium batteries with a gross weight that exceeds 12 kg when the entire shipment weighs 200 pounds are:

- “UN 3090, Lithium battery, 9, PG II, 4 boxes, 200 lbs.”
- “UN 3090, Lithium battery, 9, PG II, 1 wooden crate, 200 lbs,” and
- “UN 3090, Lithium battery, 9, PG II, 1 pallet, 200 lbs.”

Q3. If the batteries described in Questions Q1 and Q2 are packaged in separate containers and/or boxes but shrink wrapped to the same pallet, how must these entries appear on the shipping paper?

A3. When there are multiple hazardous materials in a shipment, the shipping description of each hazardous material within the shipment must be described on the shipping paper and include the total quantity and package type of each hazardous material covered by one description. You state your shipment includes lithium, wet alkali, and non-spillable wet acid batteries. Examples of the shipping paper descriptions for these entries appear in answers A1 and A2.

Q4. Please clarify how to package “UN 2800, Batteries, wet, non-spillable, 8, PG III” to qualify for the exception in § 173.159(e).

- A4. Paragraphs (e) and (f) of § 173.159 specify the requirements a non-spillable battery must meet. The batteries must be protected against short circuits and securely packaged. You may use any type of packaging that meets this standard. Non-spillable batteries that comply with § 173.159(e) are not required to be described on a shipping paper.
- Q5. What penalties or fines may be incurred if the shipping paper and packaging requirements for the batteries described in this letter are not followed?
- A5. Under 49 CFR Part 107, Subpart D, the civil penalty for knowingly violating the Federal hazardous materials transportation law (49 U.S.C. 5101, *et seq.*) or the HMR can range from \$275 to \$55,000 per violation per day, or up to \$110,000 if the violation results in death, serious illness, severe injury to any person, or substantial destruction of property. A minimum fine of \$495 applies to violations relating to training. See §§ 107.329 and 107.333. Criminal penalties may include fines and imprisonment from 5 to 10 years based on the severity of the crime.

I hope this satisfies your request.

Sincerely,



T. Glenn Foster
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Edmonson

§ 173.159

§ 173.185

Batteries

09-0158

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, July 10, 2009 10:59 AM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Letter of Interpretation

From: Jennifer Kaczmarczyk [mailto:Jennifer.Kaczmarczyk@chrobinson.com]
Sent: Friday, July 10, 2009 8:56 AM
To: PHMSA HM InfoCenter
Subject: Letter of Interpretation

Good Morning,

I am requesting a letter of interpretation regarding the bill of lading documentation and packaging requirements for some HAZMAT items.

- 1) When an item described as Batteries, Wet, Filled with Alkali, Electric Storage 8 UN2795 PG: III is being shipped is it required that the number of containers per pallet be itemized on the bill of lading? In this case there are various batteries of multiple sizes contained in each container/box and shrink wrapped to a pallet. Please specify the exact documentation required with an example.
- 2) When an item described as Lithium Batteries 9 UN3090 PG: II is being shipped is it required that the number of containers per pallet be itemized on the bill of lading? In this case there are various batteries of multiple sizes contained in each container/box and shrink wrapped to a pallet. Please specify the exact documentation required with an example.
- 3) If the items listed above are packaged in separate containers/boxes but shrink wrapped to the same pallet how should the documentation appear on the bill of lading? Please specify the exact documentation required with an example.
- 4) Please clarify how "Batteries, Non-Spillable, Electric Storage Non-Hazardous and Complies with 49CFR173.159 (d) Packaging exception applies" should be packaged in order qualify for the exception and provide an example of the bill of lading documentation.
- 5) Please advise of any penalties or fines that may be incurred if the documentation and packaging requirements for the items listed above are not followed.

Thank you for your assistance. Please feel free to contact me with any questions.

Sincerely,
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7/10/2009