



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

NOV 19 2005

400 Seventh St., S.W.
Washington, D.C. 20590

Mr. Raymond T. Duzynski
Regulatory Analyst
3M Transportation Department
3M Center
St. Paul, MN 55144

Ref No.: 04-0238

Dear Mr. Duzynski:

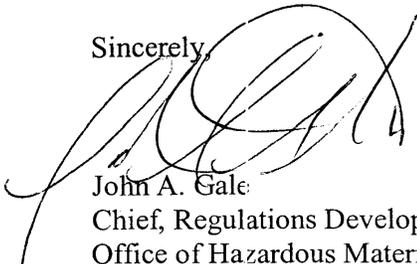
This responds to your October 11, 2004 letter requesting clarification of the packaging requirements for nonspillable batteries in § 173.159 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a nonspillable battery that does not meet the exception for nonspillable batteries under § 173.159(d), but is packaged in accordance with § 173.159(c)(6), can be shipped in a wooden crate together with the equipment that it powers. In addition, you ask if this configuration meets the definition of an overpack, and if it must be marked with a statement indicating that the inside packagings comply with prescribed specifications.

A nonspillable battery that is packaged in accordance with § 173.159(c)(6) may be placed inside a wooden crate that also contains the equipment it powers. This shipping configuration is referred to as an overpack, as defined in § 171.8. It requires the battery to be packaged in accordance with § 173.159(c)(6) and the overpack to meet the requirements specified in § 173.25.

Section 173.25(a)(2) states that an overpack must be marked with the proper shipping name and identification number and labeled for the hazardous material contained therein, unless the markings and labels representative of each hazardous material in the overpack are visible. In addition, § 173.25(a)(4) states that in the event that the required specification markings on the hazardous materials packaging are not visible, the overpack must be marked with a statement indicating that the inside packages comply with prescribed specifications. As you indicated, your battery is packaged in accordance with § 173.159(c)(6) and is excepted from specification packaging. Therefore, the overpack you describe is not required to be marked with a statement indicating that the inside packagings comply with prescribed specifications.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Regulations Development
Office of Hazardous Materials Standards



040238

173.159 (c)(6)

3M General Offices

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651 733 1000Supko
§ 173.159(c)(6)
Batteries
04-0238

October 11, 2004

By Facsimile

Mr. Edward Mazzullo
Director of Hazardous Materials Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590

Re: Request for Interpretation on Shipping Electric Storage Batteries
under 49 CFR § 173.159(c)(6)

Dear Mr. Mazzullo:

I am writing to request a clarification from your office on shipping electric storage batteries pursuant to 49 CFR § 173.159(c)(6) of the U.S. hazardous material regulations (HMR).

Currently, 3M is considering shipping one of its products and the nonspillable lead-acid batteries that power it in the same wooden crate. Note: These batteries do not qualify for the exception for nonspillable batteries under 49CFR, 173.159 (d). Our questions address the issue of whether these batteries, which are packaged pursuant to 173.159(c)(6), can be placed in the wooden crate with our product.

49 CFR § 173.159(c)(6) of the HMR states that:

(c) *The following **non-specification** packagings are authorized for batteries packed **without other materials**: (emphasis added)*

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) *Single batteries not exceeding 34 kg (75 pounds) each, packed in 5-sided slip covers or in completely closed fiberboard boxes. Slip covers and boxes must be of solid or double-faced corrugated fiberboard of at least 91 kg (200 pounds) Mullen test strength. The slip cover or fiberboard box must fit snugly and provide inside top clearance of at least 1.3 cm (0.5 inch) above battery*

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Mr. Edward Mazzullo

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terminals and filler caps with reinforcement in place. Assembled for shipment, the bottom edges of the slipcover must come to within 2.5 cm (1 inch) of the bottom of the battery. The completed package (battery and box or slip cover) must be capable of withstanding a top-to-bottom compression test of at least 225 kg (500 pounds) without damage to battery terminals, cell covers or filler caps.

My questions are as follows:

1. If the batteries are packaged in slip covers and boxes that meet all the requirements of 173.159(c)(6), can the batteries and the equipment then be placed in a non-specification wooden crate and offered for transport?
2. If the answer to the above question is "yes," I recognize that the wooden crate must contain the proper markings and Class 8 corrosive label required in the HMR. However, would the wooden crate be considered an "overpack" and as such require it also be marked with a statement indicating that the inside (inner) packages comply with prescribed specifications?

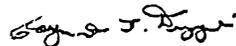
* * * * *

I would appreciate if your office could expedite this request for interpretation as we are hoping to ship this product by November 15, 2004.

Please contact me at (651) 733-9042 if you have any questions.

Thank you.

Sincerely,



Raymond T. Duzynski
Regulatory Analyst