



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

AUG 17 2005

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

Mr. Kenneth M. Kastner  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004

Ref. No. 05-0185

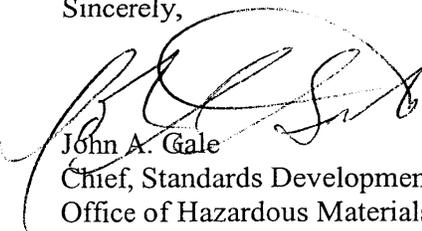
Dear Mr. Kastner:

This is in response to your letter regarding the shipment of lithium batteries for disposal under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

According to the information you provided, your lithium batteries are transported as waste to a company that destroys the battery, converts the lithium into an inert lithium carbonate form, and recovers about 40% of the total volume of the lithium battery. Based on the information provided, it is our determination that the above described processing of your lithium batteries constitutes disposal and that the exception at 49 CFR 173.185(h) would apply. In accordance with 49 CFR 172.185(h), cells and batteries being shipped for disposal may be offered for transportation or transported to a permitted storage facility and disposal site by motor vehicle when they are: (1) equipped with an effective means of preventing external short circuits; and (2) packed in a strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a. The packaging need not conform to performance requirements of Part 178 of the HMR.

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

Sincerely,

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



050185

173.24  
173.185(h)

**Gale, John <PHMSA>**

**From:** Kastner, Kenneth M. [KMKastner@HHLAW.com]  
**Sent:** Thursday, July 28, 2005 2:05 PM  
**To:** Gale, John <PHMSA>  
**Cc:** Billings, Delmer <PHMSA>  
**Subject:** Disposal of Lithium Batteries

*Referford*  
*§ 173.24*  
*§ 173.185(h)*  
*Lithium Batteries*  
*05-0185*

Mr. Gale,

I am writing to obtain your office's confirmation of a discussion I had yesterday with Del Billings. I called Del since he was the author of the attached letter that states that batteries that are shipped for recycling cannot take advantage of the exception to hazmat regulation that appears in 49 C.F.R. 173.185(h). This exception allows lithium batteries that do not meet the hazardous materials regulations to be transported by highway for disposal (but not for recycling) provided they are equipped with a means of preventing external short circuits and are packaged in accordance with 49 C.F.R. 173.24 and 173.24(a).

I asked Del whether a lithium battery should be classified as being offered for disposal or recycling when it is sent as waste to a company that destroys the battery, converts the lithium into an inert lithium carbonate form, and recovers about 40% of the total volume of the battery. He asked whether the battery will be a battery after the company processes it. I said no--the battery will be destroyed. I explained that the battery is not being regenerated, but that some of its metal components will be chemically converted and then recovered. He responded that he would consider such processing to constitute disposal and not recycling, and that the exception at 49 C.F.R. 173.185(h) would apply. In part, he said, "the battery is being disposed of as a battery; it is no longer a battery. Nothing [in this rule] prohibits recovery of metal from the battery."

I asked Del if I could send him an e-mail in which I would write up what we had discussed and his conclusion, and then he could confirm it for my client. He said that since he is no longer in the Standards Development Branch, we would need to send a request to your office for a written confirmation. Therefore, I am sending this request to you. I have copied Del on this e-mail so that if I have misstated his position in any way or left out something important, he can let us know. In any event, please let me know if you have questions or desire additional information, and I thank you in advance for your attention to this matter.

Best regards,  
Ken

*Ken Kastner*  
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08/04/2005