



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

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

JAN 17 2006

Mr. George A. Kerchner
Wiley Rein & Fielding LLP
1776 K Street NW
Washington, DC 20006

Ref. No. 05-0312

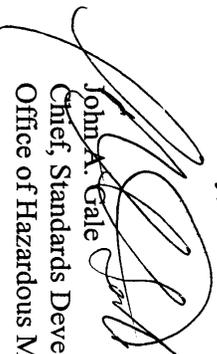
Dear Mr. Kerchner:

This responds to your letter of November 30, 2005, requesting clarification of the placarding requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a shipper who offers a carrier a shipment consisting of excepted nonspillable lead acid batteries, Batteries, wet filled with acid, 8 UN2794 PG III and Battery fluid, acid, 8, UN2796, PG II must consider the weight of the excepted nonspillable batteries when determining the aggregate gross weight of Table 2 materials on the vehicle under §172.504(c) of the HMR?

The answer is no. Hazardous materials listed in Table 2 in § 172.504(e) of the HMR that do not require placards are not included in the aggregate gross weight used for placarding determinations.

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



050312

172.504 (c)
173.159 (d)



Wiley Rein & Fielding LLP

Referred
\$172.504(c)
\$173.159(d)

November 30, 2005

Placarding
Batteries
05-0312

George Kerchner
202.719.4109
gkerchner@wrf.com

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

Virginia Office
7925 JONES BRANCH DRIVE
SUITE 6200
MCLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wrf.com

Mr. Edward Mazzullo
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590

Re: Request for Interpretation on Placarding Shipments of Nonspillable Batteries, Batteries, Wet, Filled with Acid (UN2794), and Battery Fluid, Acid (UN2796)

Dear Mr. Mazzullo:

I am writing for a clarification on the placarding requirements for a shipper who offers a shipment consisting of the following materials:

1. Nonspillable lead acid batteries that are excepted from regulation pursuant to 49 CFR 173.159(d);
2. Batteries, wet, filled with acid (UN2794) – Offered as a Class 8 Corrosive hazardous material; and
3. Battery fluid, acid (UN2796) – Offered as a Class 8 Corrosive hazardous material.

It is a very common practice for a battery manufacturer or distributor to offer a carrier such as Yellow Freight or Roadway a single shipment consisting of Battery fluid, acid (UN2796), Batteries, wet, filled with acid (UN2794), and nonspillable lead acid batteries. The UN2794 and UN2796 materials are packaged and offered as fully regulated Class 8 Corrosive hazardous materials but the nonspillable batteries are packaged and offered pursuant to the exception found at 49 CFR 173.159(d).

As you know, 49 CFR § 172.504(c) provides an exception from placarding requirements if the aggregate gross weight of certain hazardous materials (including Class 8 Corrosives) is less than 1001 pounds. However, the regulation is not explicit regarding how to calculate this weight when both regulated and non-regulated materials are included in a single shipment. My question therefore is as follows:

If a shipper offers a carrier a shipment consisting of excepted nonspillable lead acid batteries, Batteries, wet, filled with acid (UN2794), and Battery fluid, acid (UN2796), must the shipper consider the weight

Wiley Rein & Fielding LLP

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of the excepted nonspillable batteries when determining the total weight of the hazardous materials?

Thank you for your assistance on this matter.

Sincerely,

George A. Kerchner

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