



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

APR 20 2006

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Washington, D.C. 20590

Mr. Paul D. Ackerman
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Ref. No. 06-0062

Dear Mr. Ackerman:

This is in response to your March 10, 2006 letter requesting clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transportation of electric storage batteries. You provide three different transportation scenarios. Specifically, you ask if your electric storage batteries satisfy the exceptions in § 173.159 when they are offered and transported under the conditions described in each scenario. Each scenario is summarized, and the answer for each scenario is provided as follows:

Scenario 1: A facility ships (1) used non-spillable wet electric storage batteries that meet all the conditions of the exception in § 173.159(d); and, (2) used wet electric storage batteries (i.e. not “non-spillable”) that are loaded and transported in accordance with all of the conditions of the exception in § 173.159(e). The “non-spillable” wet electric storage batteries and the wet electric storage batteries are placed into the same outer packaging for transportation. The batteries are offered for transportation by highway only.

Answer 1: Your understanding is correct. Both the used “non-spillable” wet electric storage batteries and the wet electric storage batteries meet the exceptions in § 173.159. Placing both types of batteries in the same outer packaging does not preclude the use of the exceptions in § 173.159.

Scenario 2: Assume the same facts set forth in Scenario 1, except the used wet electric storage batteries, which are not “non-spillable,” are not loaded and transported in a manner that complies with § 173.159(e) (e.g., the transport vehicle carries other materials not shipped by the company that is shipping the batteries).

Answer 2: Your understanding is correct. The “non-spillable” wet electric storage batteries are excepted from the requirements of the HMR in accordance with the exception in § 173.159(d). However, the wet electric storage batteries, which are not “non-spillable,” are not eligible for the exception in § 173.159(e) and must be placed in packagings authorized by §§ 173.159(b) or (c), and they must be offered and transported



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173.159

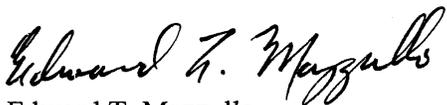
in accordance with all applicable requirements of the HMR (e.g., marking, labeling, shipping papers). Both battery types may be placed in the same outer packaging provided the outer packaging is authorized in §§ 173.159(b) or (c), and the completed package is properly marked and labeled.

Scenario 3: Assume the same facts set forth in Scenario 1, except some of the used wet electric storage batteries show signs of leakage or potential leakage (e.g., corrosion or damage). The facility individually places any damaged or leaking battery into a strong plastic polyethylene battery shipping bag to prevent any release of battery fluid during transportation. The batteries are then packaged along with the other used wet electric storage batteries as described in Scenario 1.

Answer 3: The undamaged wet electric storage batteries are not subject to the requirements of the HMR. See Answer 1. Damaged batteries are not eligible for the exception in § 173.159(e) if the damage has rendered them incapable of retaining battery fluid inside the outer casing during transportation. However, a damaged battery may be shipped under the exception § 173.159(e) if: (1) it has been drained of battery fluid to eliminate the potential for leakage during transportation; (2) it is repaired and/or packaged in such a manner that leakage of battery fluid is not likely to occur under conditions normally incident to transportation; or, (3) the damaged or leaking battery is transported under the provisions of § 173.3(c). Battery fluid that has leaked from the battery, or that has been drained from the battery prior to transportation must be classed, packaged and described as appropriate for the liquid, and may not be transported in the same transport vehicle as batteries shipped under the exception in § 173.159(e).

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

Sincerely,



Edward T. Mazzullo
Director, Office of Hazardous
Materials Standards

Eichenlaub
§173.159
Batteries
06-0062



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March 9, 2006

FACSIMILE AND U.S. MAIL

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Pipeline and Hazardous Materials Standards Administration
Office of Hazardous Materials Standards
Room 8421
400 7th Street, S.W.
Washington, DC 20590-0001

Re: Transportation of Electric Storage Batteries

Dear Mr. Mazzullo:

We are writing to request written confirmation of our interpretation of the hazardous material regulations (HMRs) applicable to the transportation of used wet electric storage batteries containing electrolyte acid or alkaline corrosive battery fluid. The batteries at issue are typical automobile and equipment batteries which have been removed from vehicles or equipment and are being shipped by highway for reclamation. With respect to such shipments, we ask that you please confirm that the following interpretations are consistent with 49 C.F.R. § 173.159 and other related provisions of the HMRs:

Scenario No. 1: A facility ships (i) used non-spillable wet electric storage batteries that meet all of the conditions set forth in the exception found at 49 C.F.R. § 173.159(d) and (ii) used regular wet electric storage batteries (*i.e.*, not "non-spillable") which are loaded and transported in accordance with the conditions set forth in the exception found at 49 C.F.R. § 173.159(e). For efficiency, the used non-spillable and regular batteries are shipped together in a single package that complies with either the specification packaging requirements set forth in 49 C.F.R. § 173.159(b) or the authorized non-specification packaging requirements set forth at 49 C.F.R. § 173.159(c).



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Interpretation: The act of combining the shipment of used non-spillable and regular wet electric storage batteries in a single specification or approved non-specification package, as described above, does not change the applicability of the regulatory exceptions authorized by 49 C.F.R. §§ 173.159(d) or (e). In other words, the shipment of used non-spillable electric storage batteries described above would remain subject to the exception found at 49 C.F.R. § 173.159(d). Likewise, the concurrent shipment of used regular electric storage batteries described above would remain subject to the exception found at 49 C.F.R. § 173.159(e). Combining the batteries into a single package does not negate either exception so long as the respective conditions for each exception are met.

Scenario No. 2. Assume the same facts set forth in Scenario No.1, except that the used regular wet electric storage batteries are not loaded and transported in a manner that complies with 49 C.F.R. § 173.159(e) (e.g., the transport vehicle carries other materials not shipped by the company that is shipping the batteries).

Interpretation: The act of combining the shipment of used non-spillable and regular wet electric storage batteries in a single specification or approved non-specification package does not change the applicability of the regulatory exception authorized by 49 C.F.R. § 173.159(d) for the non-spillable batteries. Under Scenario No. 2, the concurrent shipment of used regular electric storage batteries remains subject to the HMRs and the shipper will comply with all applicable requirements in the regulations (i.e., shipping paper, marking, labeling). However, combining the regular batteries with the non-spillable batteries into a single package does not negate the exception for the non-spillable batteries found at 49 C.F.R. § 173.159(d) so long as the conditions set forth in that exception are met.

Scenario No. 3: Assume the same facts set forth in Scenario No.1, except that prior to shipment the facility inspects the batteries and notes that one or more of the batteries show signs of leakage or potential leakage (e.g., corrosion or damage). The facility individually packs any damaged or leaking battery into a strong plastic polyethylene battery shipping bag to prevent any release of battery fluid during shipment. The batteries are then packaged along with the rest of the used batteries as described in Scenario No. 1 and shipped by highway for reclamation.

Interpretation: The shipment of used regular electric storage batteries described in Scenario 3 remains subject to the regulatory exceptions authorized by 49 C.F.R. §§ 173.159(d) and (e). In other words, the act of using secondary

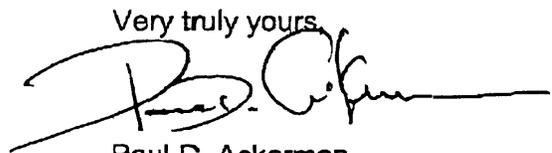


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preventative packaging on certain batteries that are part of a shipment that is exempt from the HMRs under 49 C.F.R. §§ 173.159(d) or (e) has no bearing on whether either exception applies.

* * * * *

We appreciate any priority that you can give in responding to this request. Please contact me if you have any questions or need additional information.

Very truly yours,

Paul D. Ackerman