



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

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

OCT 29 2003

Reference No.: 02-0301

Ms. Penny L. Guido  
YUASA Battery, Inc.  
P. O. Box 14715  
Reading, PA 19612-4715

Attn: Mr. Joe Majewski

Dear Ms. Guido:

This letter is in further reference to our June 4, 2003 response concerning the limited quantity exception in § 173.154 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that your company manufactures dry batteries that are shipped with a separate acid pack. One dry battery and an acid pack are packaged in a UN certified outer packaging, marked "Battery fluid, acid, UN 2796." The product is offered for domestic and international transportation. In a subsequent conversation with a member of my staff, you clarified that each acid pack, which is in a polyethylene bottle with a volume of 32 ounces or less, contains less than 0.4 L of acid. Our earlier response to "Q1" was in error and is corrected below. I apologize for any inconvenience this may have caused.

Q1. May our product be offered as a limited quantity under the provisions in § 173.154(b)?

A1. The answer is no. Although the § 172.101 Hazardous Materials Table in column (8A) authorizes Battery fluid, acid, UN 2796 to be packaged in accordance with § 173.154, column (7) of the Table directs the reader to Special Provision N6. Special Provision N6 states that "battery fluid packaged with electric storage batteries, wet or dry, must conform to the packaging provisions of § 173.159(g) or (h)." Paragraphs (g)(3) and (h) require the use of a combination packaging with the outer packaging being a 4G fiberboard box. The completed package must conform to the Packing Group III performance level.

You may request changes to the HMR. The procedures for filing a petition for rulemaking are contained in §§ 106.95 and 106.100.

I hope this satisfies you inquiry.

Sincerely,

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



020301



U.S. Department  
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JUN - 4 2003

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

Ms. Penny L. Guido  
YUASA Battery, Inc.  
P. O. Box 14715  
Reading, PA19612-4715

Reference No.: 02-0301

Attn: Mr. Joe Majesky

Dear Ms. Guido:

This letter replaces our January 22, 2003 response concerning the limited quantity exception in § 173.154 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that you manufacture dry batteries that are shipped with a separate acid pack which is a polyethylene bottle with a volume of 32 ounces or less. One dry battery and an acid pack are packaged in a UN certified packaging, marked "Battery fluid, acid, UN2796." The product is offered for domestic and international transportation. In a subsequent telephone conversation with a member of my staff, you clarified that each acid pack contains less than 0.4 L of acid. Our response to question 1 is revised for clarity.

Your questions are paraphrased and answered as follows:

Q1. May our product be offered as a limited quantity under the provisions in § 173.154(b)?

~~A1. The answer is yes. The § 172.101 Hazardous Materials Table authorizes Battery fluid, acid, UN2796 to be packaged in accordance with § 173.154. The limited quantity provisions for Class 8, PG II materials in § 173.154(b)(1) authorize the use of an inner packaging not over 1 L (0.3 gal.) net capacity for liquids.~~

*withdrawn*

Q2. How are "limited quantities" described on a shipping paper and what are the marking requirements for "limited quantity" packages?

A2. The description for a material offered for transportation as a "limited quantity" must include the words "Limited Quantity" or "Ltd Qty" following the basic description, see § 172.203(b). Packages must be marked with the proper shipping name for the material as shown in the Hazardous Materials Table, see § 172.301(a). The identification number is not required on packages that contain only limited quantities. Under § 172.312, package orientation markings are required on two opposite vertical sides of a non-bulk package containing liquid hazardous materials except when the inner packagings are hermetically sealed.

Q3. May the limited quantity exception be used in international commerce?

A3. Limited quantities may be offered for international transportation by air and by vessel. International air transportation is subject to the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air. See Part 3, Chapter 4, for acceptable dangerous goods (hazardous materials), specific packaging requirements, and quantity limitations. The applicable regulations for limited quantities being transported by vessel are found in the International Maritime Dangerous Goods Code, Volume 2, Chapter 3.4.

I hope this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell". The signature is written in dark ink and is positioned above the typed name.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

**Battery Council  
International**



**BCI Washington, DC Counsel:**  
Howrey Simon Arnold & White  
1299 Pennsylvania Ave., N.W.  
Washington, D.C. 20004-2402

August 1, 2003

Via Facsimile and Email

Ms. Gigi Corbin  
U.S. Department of Transportation  
Research and Special Programs Administration  
Office of Hazardous Materials Standards  
400 Seventh Street, S.W.  
Washington, DC 20590-000

Re: Limited Quantity Exception for Battery Fluid, Acid (UN 2796)

Dear Ms. Corbin:

Battery Council International (BCI) recently was made aware that a RSPA interpretation letter issued to one of our members pertaining to shipments of *Battery fluid, acid* (UN 2796) has been withdrawn. The letter addressed the transportation of battery acid packed with dry batteries (also known as "fresh packs"), and confirmed that these may be shipped by ground, in limited quantities, without the use of specification packaging. I am writing today to request that the RSPA interpretation be reconfirmed by reissuance of this letter.

BCI is a non-profit trade association representing commercial entities involved in the manufacture, distribution, sale, and reclamation of lead-acid batteries. BCI's members and associate members include manufacturers and distributors of lead-acid storage batteries for automotive, marine, industrial, stationary, specialty, consumer and commercial uses, and secondary lead smelters that reclaim or recycle the batteries once they are spent. BCI's membership represents more than 99 percent of the nation's domestic lead-acid battery manufacturing capacity and more than 85 percent of the nation's lead battery recycling or secondary smelting capacity.

As you are aware, under 49 CFR § 173.154(b), *Battery fluid, acid* can be shipped in limited quantities, by ground, provided the following requirements are met:

1. Combination packaging is used;
2. Inner packages of acid contain less than 1.0 L;
3. Packages are marked "Battery fluid, acid" and have double up arrows on opposing sides; and
4. Shipping papers include the basic shipping description and the words "Limited. Quantity" or "Ltd. Qty".

RSPA's letter was initially issued in response to a request that your office confirm that these "fresh packs" can be shipped by ground as limited quantities if the requirements listed above are met. Your office issued a favorable letter, but subsequently withdrew it.

We have been told that the withdrawal occurred because RSPA perceived an inconsistency in the limited quantity provisions and special provision "N6" in the U.S. hazardous materials regulations (HMR). The concern apparently is that Special Provision N6 appears to require specification packaging, but 49 CFR § 173.154(b) does not.

There is no reason that such specification packaging should be required, however. Strong combination packaging already is required when these products are shipped as limited quantities, only small amounts of battery fluid are shipped in these packages, and BCI is not aware of any safety incidents involving these products in ground transport. Therefore, use of specification packaging is an unnecessary burden on BCI members and their customers. In addition, 49 CFR 173.159(h), as referenced in "N6," does not appear to require specification packaging. BCI thus urges that RSPA reconfirm that these "fresh packs" can be shipped by ground in limited quantities using non-specification combination packaging.

This is an extremely important issue to BCI in light of the fact that one our members recently was cited by the U.S. DOT for violations of the HMR involving shipments of these fresh packs. Please contact our Washington, DC counsel, David Weinberg, at 202-383-7435 or his colleague, George Kerchner, at 202-383-7163 if you have questions regarding BCI's position on this matter.

I look forward to your immediate response.

Sincerely,

*Timothy J. Lafond*

Timothy J. Lafond  
Chairman, BCI Environmental Committee



Keith E. Ordemann  
President & COO

July 31, 2003

Ms. Gigi Corbin  
U.S. Department of Transportation  
Research and Special Programs Administration  
Office of Hazardous Materials Standards  
400 Seventh Street, S.W.  
Washington, DC 20590-0001

Dear Ms. Corbin,

Re: Limited Quantity Exception for Fresh Pack Batteries and Battery Fluid, Acid (UN 2796)

Yuasa is pleased to provide the enclosed samples to aid the Department of Transportation in evaluating the packaging and marking issues for Fresh Pack batteries and Battery Fluid, Acid. Rather than restate the issues, I've attached a copy of Timothy Lafond's July 29<sup>th</sup> letter from the Battery Council International. This letter accurately reflects the issues from Yuasa's perspective and was prepared with input from my team.

Yuasa is committed to adhering to the DOT's (and all other governing bodies) policies and rulings to assure safe transport of Yuasa products. We have had no significant safety issues in our history and are committed to protecting the safety of everyone who handles our products from our distribution center to the consumer who buys, and in some cases installs, their batteries. Additionally, we have regular HazMat training for all of our Distribution Center employees to ensure that they are trained on DOT rules and regulations, and any updates.

Yuasa's primary goal in pursuing the Limited Quantity Exception is to eliminate the shipping surcharge levied by key freight carriers (UPS, FedX Ground, and Purolator are examples) for hazardous materials shipments. Yuasa's distributor customers use one of these three carriers for most shipments to powersports dealers. Yuasa also occasionally uses UPS for shipments to these distributors. Currently, distributors and dealers recover this surcharge in their pricing strategies, by passing the surcharge on to consumers. Obviously, both groups would prefer to avoid this surcharge to improve the value of our products to consumers. Additionally, Yuasa is currently moving to a worldwide, standardized look in our packaging. Reconfirming that "fresh packs" can be shipped by ground in limited quantities using non-specification combination packaging will enable Yuasa to complete the standardized, worldwide graphics program and provide savings to consumers.

Yuasa is committed to using packaging that provides adequate protection to the battery, acid container, and those who come in contact with the product. However, there is a cost to certifying packaging. Gaining Limited Quantity Exemption status would save Yuasa the time and money

**YUASA Battery, Inc.**

2901 Montrose Avenue, Reading, PA 19605  
P. O. Box 14715, Reading, PA 19612-4715  
Phone: 610-929-5781

Ms. Gigi Corbin  
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July 31, 2003  
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of certification. However, these savings are a distant secondary reason Yuasa seeks the Limited Quantity Exemption.

We look forward to meeting with you, BCI, and the DOT team to discuss this important issue. I will have Linda Gartner, my assistant, call you the week of August 4 to set an appointment with you and your associates.

Sincerely,



Keith Ordemann

KEO:llg

Attachment