

July 2, 2024

Timothy W. Wiseman  
Scopelitis, Garvin, Light, Hanson & Feary  
10 West Market St  
Suite 1400  
Indianapolis, IN 46204

Reference No. 24-0050

Dear Mr. Wiseman:

This letter is in response to your May 31, 2024, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of damaged and defective lithium batteries.

We have paraphrased and answered your questions as follows:

- Q1. You ask whether all damaged or defective lithium batteries must be transported in accordance with the requirements of § 173.185(f).
- A1. The answer is yes. All damaged or defective lithium batteries that have the potential of producing a dangerous evolution of heat, fire, or short circuit must be transported in accordance with the requirements of § 173.185(f).
- Q2. You ask whether damaged or defective lithium batteries transported for disposal, recycling, or permanent storage may be packaged in accordance with the limited exceptions offered in § 173.185(d)—i.e., without UN performance packaging.
- A2. The answer is no. See answer A1.
- Q3. You ask whether low production run and prototype lithium batteries that have been identified as damaged or defective may be transported in accordance with the packaging requirements in § 173.185(e).

CONCUR:
ROUTING PHH-12
INITIALS EP
DATE 6/18/24
ROUTING PHH-10
INITIALS MBN
DATE 6/18/2024
ROUTING PHH-4
INITIALS KAL
DATE 6/26/2024
ROUTING PHC-10
INITIALS HSD
DATE 7/2/24
ROUTING PHC-10
INITIALS LEU
DATE 7/2/24
ROUTING
INITIALS
DATE
ROUTING
INITIALS
DATE

A3. The answer is no. See answer A1.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Eamonn Patrick  
Acting Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

CONCUR:
ROUTING PHH-12
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U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

July 2, 2024

Timothy W. Wiseman  
Scopelitis, Garvin, Light, Hanson & Feary  
10 West Market St  
Suite 1400  
Indianapolis, IN 46204

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A3. The answer is no. See answer A1.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink that reads "Eamonn Patrick". The signature is written in a cursive style with a large initial 'E' and a stylized 'P'.

Eamonn Patrick  
Acting Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

Patrick

24-0050

**From:** [Patrick, Eamonn \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#)  
**Cc:** [DerKinderen, Dirk \(PHMSA\)](#); [Andrews, Steven \(PHMSA\)](#); [Kelley, Shane \(PHMSA\)](#)  
**Subject:** FW: Request for Interpretation - 49 CFR 173.185  
**Date:** Tuesday, June 18, 2024 8:38:35 AM  
**Attachments:** [Request for Interpretation 5-30-24.pdf](#)

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Good morning Alice,

Please check this LOI request in and assign it to me, thanks!

-Eamonn

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**From:** Andrews, Steven (PHMSA) <[steven.andrews@dot.gov](mailto:steven.andrews@dot.gov)>  
**Sent:** Tuesday, June 18, 2024 8:29 AM  
**To:** DerKinderen, Dirk (PHMSA) <[Dirk.DerKinderen@dot.gov](mailto:Dirk.DerKinderen@dot.gov)>; Kelley, Shane (PHMSA) <[shane.kelley@dot.gov](mailto:shane.kelley@dot.gov)>; Patrick, Eamonn (PHMSA) <[eamonn.patrick@dot.gov](mailto:eamonn.patrick@dot.gov)>  
**Subject:** FW: Request for Interpretation - 49 CFR 173.185

Shane,

Have you seen this before? I just searched my email for Wiseman (found nothing) and do not recall seeing this before. I also checked FileMaker, do not see it logged in as an official Letter of Interpretation yet. CC'ing Eamonn into the loop.

Thanks  
Steven

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**From:** Schoonover, William (PHMSA) <[william.schoonover@dot.gov](mailto:william.schoonover@dot.gov)>  
**Sent:** Tuesday, June 18, 2024 8:22 AM  
**To:** Quade, William (PHMSA) <[william.quade@dot.gov](mailto:william.quade@dot.gov)>; Kelley, Shane (PHMSA) <[shane.kelley@dot.gov](mailto:shane.kelley@dot.gov)>; Andrews, Steven (PHMSA) <[steven.andrews@dot.gov](mailto:steven.andrews@dot.gov)>; DerKinderen, Dirk (PHMSA) <[Dirk.DerKinderen@dot.gov](mailto:Dirk.DerKinderen@dot.gov)>  
**Subject:** FW: Request for Interpretation - 49 CFR 173.185

Gentlemen,

I forwarded this previously. Did we answer Mr. Wiseman? If not, can we have an answer developed or can I get a status?

Bill

**William S. Schoonover**

Associate Administrator, Office of Hazardous Materials Safety

USDOT, PHMSA  
1200 New Jersey Ave, SE, Washington, DC 20590

Office: 202.366.0656 ♦ Mobile: 202.495.9510

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**From:** Wiseman, Tim <[twiseman@scopelitis.com](mailto:twiseman@scopelitis.com)>  
**Sent:** Tuesday, June 18, 2024 6:11 AM  
**To:** Schoonover, William (PHMSA) <[william.schoonover@dot.gov](mailto:william.schoonover@dot.gov)>  
**Subject:** FW: Request for Interpretation - 49 CFR 173.185

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Bill,

Just wanted to follow-up to confirm your receipt of my request for interpretation attached. Thanks! -Tim

**Timothy W. Wiseman, Partner**  
**Scopelitis, Garvin, Light, Hanson & Feary, P.C.**  
10 West Market Street, Suite 1400, Indianapolis, IN 46204  
[twiseman@scopelitis.com](mailto:twiseman@scopelitis.com) | T: [317.637.1777](tel:317.637.1777) | D: [317.492.9221](tel:317.492.9221)

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**From:** Wiseman, Tim <[twiseman@scopelitis.com](mailto:twiseman@scopelitis.com)>  
**Sent:** Friday, May 31, 2024 7:14 AM  
**To:** [william.schoonover@dot.gov](mailto:william.schoonover@dot.gov)  
**Subject:** Request for Interpretation - 49 CFR 173.185

Bill,

Hope all is well with you! I've attached a letter requesting guidance from PHMSA related to the lithium battery regulations in 49 CFR 173.185. Let me know if you have any questions or if should submit this to someone else at the agency. Thanks! -Tim

**Timothy W. Wiseman, Partner**  
**Scopelitis, Garvin, Light, Hanson & Feary, P.C.**  
10 West Market Street, Suite 1400, Indianapolis, IN 46204  
[twiseman@scopelitis.com](mailto:twiseman@scopelitis.com) | T: [317.637.1777](tel:317.637.1777) | D: [317.492.9221](tel:317.492.9221)

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**TIMOTHY W. WISEMAN**  
[twiseman@scopelitis.com](mailto:twiseman@scopelitis.com)  
Direct Dial: 317.492.9221

May 31, 2024

*Sent Via Email/William.schoonover@dot.gov*

Mr. William S. Schoonover  
Associate Administrator for Hazardous  
Material Safety  
U.S. Department of Transportation  
Pipeline & Hazardous Material Safety Adm.  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Re: Request for Interpretation

Dear Mr. Schoonover:

In reviewing the regulations in 49 C.F.R. § 173.185 pertaining lithium cells and batteries, I had the following questions for which I am seeking a letter of interpretation from the U.S. Department of Transportation, Pipeline & Hazardous Material Safety Administration (“PHMSA”).

1. Do all damaged and/or defective lithium batteries have to be transported in compliance with 49 C.F.R. § 173.185(f)?
2. Can a company take advantage of the limited exception under § 173.185(d) if the battery being shipped to a permanent storage facility or disposal site, or for purposes of recycling, is identified as being damaged or defective?
3. If a company has a prototype or low production battery, can it comply with § 173.185(e), even if such batteries are identified as being damaged or defective?

Mr. William S. Schoonover

May 31, 2024

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In sum, I trying to determine whether batteries identified as being damaged or defective are exclusively subject to § 173.185(f) or can be handled in accordance with § 173.185(d) when shipped for disposal or recycling or under § 173.185(e) if the batteries are low production run or prototypes?

I appreciate any guidance PHMSA can provide with respect to these questions. If additional information is required to process this request, please do not hesitate to contact me.

Very truly yours,

*/s/ Timothy W. Wiseman*

Timothy W. Wiseman

TWW/kkc