



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 12 2018

Erin Sineath
Global Manager of Dangerous Goods
XPO Logistics
4043 Piedmont Parkway
High Point, NC 27265

Reference No. 17-0099

Dear Ms. Sineath:

This letter is in response to your September 11, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to non-spillable batteries. Specifically, you ask if manufacturers are permitted to use symbols or pictograms that indicate "non-spillable" to meet the marking requirements of § 173.159a(c).

The answer is no. A person must adhere to the requirements in § 173.159a(c)(2), which state the battery and outer packaging must be plainly and durably marked "NON-SPILLABLE" or "NON-SPILLABLE BATTERY." The quotation marks indicate the required verbiage that must be used when marking a non-spillable battery. The requirement to mark the outer package does not apply when the battery is installed in a piece of equipment that is transported unpackaged.

There is no restriction against using a symbol or pictogram to indicate non-spillable on a battery; however, it does not satisfy the required marking for compliance with the HMR. Additionally, it is the opinion of this Office that the symbols and pictograms you provide in your email may not be universally known to communicate that the battery is non-spillable.

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

Sincerely,

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Baker
\$173.157(a)
Batteries
17-0099

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, September 12, 2017 2:12 PM
To: Hazmat Interps
Subject: FW: Request for Formal Interpretation
Attachments: Battery Interp Letter.pdf

Hi Alice,

Please submit this as a letter of interpretation. Let me know if you have any questions.

Thanks,
Jodi

From: Erin Sineath [mailto:Erin.Sineath@xpo.com]
Sent: Monday, September 11, 2017 1:30 PM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Request for Formal Interpretation

Dear Info Center,

Attached is a request for formal interpretation. Please feel free to contact me if you have any questions.

Erin N. Sineath
Supply Chain
Global Manager of Dangerous Goods

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September 11, 2017

Mr. Charles Betts, Director
Office of Hazardous Material Standards
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, D.C. 20590-0001

Dear Mr. Betts,

I am writing to you today to ask for clarification related to non-spillable batteries that are shipped under 49 CFR 173.159a. For these battery types, the electrolyte is absorbed into a material within the battery or is encapsulated in a gel or a paste, such that a flow of electrolyte would not occur in the event the battery casing becomes cracked.

Specifically, the exception for these batteries 49 CFR 173.159a(c) relieves these batteries from all other requirements of the subchapter as long as the "battery and outer package is plainly and durably marked "non-spillable" or "non-spillable battery"". From my literal reading of this exception, it seems to me that the actual word(s) would have to appear on the battery and the outer package to meet the requirement.

Recently I have seen several instances where a battery is deemed by the manufacturer to be "non-spillable" and it is clearly stated as such in the Safety Data Sheet (SDS) and the technical specification sheet for the battery. However, when examining the battery, the word(s) "non-spillable" or "non-spillable battery" is not marked on the battery label or casing. Instead, the manufacturer uses a symbol to convey the battery's non-spillable status. Examples of typical symbols that I have seen used are shown below:



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Would any of these examples meet the requirement to mark the battery as “non-spillable” or as a “non-spillable battery” per 49 CFR 173.159a(c)? If not, is it your opinion that an offeror who has proof that a battery is non-spillable would be required to mark the battery and the outer package themselves to meet the requirement?

Thank you in advance for your assistance with this question.

Sincerely,

Erin N. Sineath

Global Manager of Dangerous Goods

XPO Logistics – Supply Chain

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