



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 27 2019

Mr. Tom Boyd
389 Brighton Hill Road
Minot, ME 04258

Reference No. 18-0082

Dear Mr. Boyd:

This letter is in response to your May 26, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the shipment of "UN2794, Batteries, wet, filled with acid, *electric storage*." Specifically, you ask three questions related to a previously issued letter of clarification and a special permit. Your questions are paraphrased and answered as follows:

- Q1. Is Configuration #1, as described in letter of clarification Reference No. 14-0037, authorized under the HMR without a special permit? In the configuration, "[b]atteries are placed on the bottom layer of a pallet. Battery terminals are protected with non-conductive caps or tape in compliance with § 173.159(a)(2) of the HMR. The batteries are not in a box or a slip cover; therefore, this configuration is not utilizing the non-specification packagings authorized by § 173.159(d)(3) - (7). Strong corrugated cardboard or rigid plastic is placed on top of this bottom layer of batteries and then shrink-wrapped with the batteries. If the batteries do not fill the entire pallet area, empty cardboard or plastic boxes are used to fill that space to ensure the batteries are securely cushioned and packed to prevent shifting. The empty boxes could include inert packing material. On top of the shrink-wrapped battery layer we may place a shrink-wrapped layer of other items, hazmat or non-hazmat, with all hazmat items properly packaged according to the appropriate HMR packaging provision. All layers are shrink-wrapped together to ensure the entire load is secure. Each layer is capable of supporting the weight of the layer or layers on top."
- A1. The answer is no. Because the other materials (hazmat or non-hazmat) are placed on top of the batteries, the configuration described in question Q1 does not conform to the packaging methods authorized in § 173.159.
- Q2. May a shipper offer "UN2794, Batteries, wet, filled with acid, *electric storage*," for transportation in the method prescribed in § 173.159(d)(6) with other materials, hazardous or otherwise, on a shrink-wrapped pallet without a special permit.
- A2. The answer is no. As prescribed in § 173.159(a), batteries may not be packaged with other materials except as provided in § 173.159(g) and (h) and in §§ 173.220 and 173.222.

Q3. Does Special Permit DOT-SP 16171 authorize other non-hazmat materials, such as pails, cans, or pipes, to be packed with batteries on the same pallet.

A3. The answer is yes, provided the pails, cans, or pipes are packed in plastic totes or fiberboard boxes under the terms of the special permit. Further, the materials must be contained in strong outer packagings that are sift-proof, if solid, or leakproof, if liquid.

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

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Stevens
Batteries
18-0082

January, Ikeya CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, May 29, 2018 1:55 PM
To: Hazmat Interps
Subject: FW: Hazmat question reference 17-0112

Hi Ikeya,

Below is an e-mail from Tom Boyd. He recently received his letter, however, there seems to be an issue with one of the responses that he received within his letter. His e-mail rephrases his original question, and requests another written response.

Regards,

-Breanna

From: Tom Boyd [mailto:tom@eastbranchdelivery.com]
Sent: Saturday, May 26, 2018 5:26 AM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Hazmat question reference 17-0112

Dear Sirs,

In response to my question you have answered in your interpretation letter 17-0112 I need clarification on Q2. My question was whether or not a shipper can ship batteries wet filled with acid with any other freight mixed into the same pallet **without** individual packaging like the 5 sided cartons which were the industry standard for so many years. The way you paraphrased the question it is not the same as the question I had. The way my question was paraphrased it says that batteries, individually packaged and labeled, cannot be shipped with other freight in the same skid. I think you answered my question in your answer A2 correctly but miss-stated my question. So I am re-stating my question.

Is it correct that having the batteries, wet filled with acid, individually packaged, like with the 5 sided slip covers they used to come from the factory in with all the right labeling, allows a shipper to co-mingle the batteries with other freight in the same shrink wrapped pallet?

Is it true that a shipper cannot ship batteries without individual packaging and labeling in the same skid as other freight without obtaining a special permit 16171 and adhering to the limitation outline in said special permit?

Again I would like a written response.

Thank You,

Tom Boyd
389 Brighton Hill Road
Minot ME 04258

207-577-4631