



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

MAY 02 2019

Alec Burney  
Electric Bike Technologies LLC  
1021 Washington Ave.  
Croydon, PA 19021

Reference No. 18-0158

Dear Mr. Burney:

This letter is in response to your December 12, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to hazardous materials training. Specifically, you seek confirmation of your understanding that your customers may ship lithium batteries back to your company by ground transportation without having received formal hazardous materials training.

Your understanding is correct, provided the customer is not considered a hazmat employee as defined by § 171.8. For purposes of the HMR, "hazmat employee" means a person who is employed by a hazmat employer and who, in the course of employment, directly affects hazardous materials transportation safety. An individual or private citizen does not meet the definition of a hazmat employee and is not required to have hazardous materials training. However, an individual or private citizen must still comply with all applicable HMR requirements when offering hazardous materials to a commercial carrier for transportation in commerce. If the customer is considered a hazmat employee (e.g., a distributor, retailer, etc.), the person is fully subject to the training requirements in Part 172, Subpart H.

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

Sincerely,

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

**January, Ikeya CTR (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Thursday, December 13, 2018 4:49 PM  
**To:** Hazmat Interps  
**Subject:** FW: Interpretation Letter Request

Hello Alice and Ikeya,

I talked with Alec and gave him letter of interpretation 16-0109. He would still like a letter of interpretation on his specific situation.

Thanks,

**Lynsie Patschke**  
Transportation Regulatory Specialist  
Hazardous Materials Information Center (HMIC)

**From:** Alec Burney [mailto:[alec@electricbiketech.com](mailto:alec@electricbiketech.com)]  
**Sent:** Wednesday, December 12, 2018 4:20 PM  
**To:** INFOCNTR (PHMSA) <[INFOCNTR.INFOCNTR@dot.gov](mailto:INFOCNTR.INFOCNTR@dot.gov)>  
**Cc:** Jason Kraft <[jason@electricbiketech.com](mailto:jason@electricbiketech.com)>  
**Subject:** Interpretation Letter Request

**To:**  
the Standards Office for clarification on a rule

**From:**  
Electric Bike Technologies  
1021 Washington Ave.  
Croydon, PA 19021

Hello,

We currently ship Lithium Ion Batteries contained in equipment or packed with equipment using UPS's dangerous goods shipping program as Hazardous Materials Class 9 UN3481. We only ship using ground transportation for this. The batteries are 350 – 950 watt-hours and ship in tested class packaging systems with emergency contact phone number labeling and Offerer-signed hazardous materials shipping papers included.

We would like to be able to accept return shipments of batteries from our customers by ground transportation. This would be just a few batteries a year being shipped by an end user back to us – I believe this should be possible if we send the customer the correct tested box with labels and class markings, packing materials and closures, ready to accept the battery. We would offer them instructions on how to place the battery in the box and use the closure. As the offerer, they would then sign and date the shipping papers.

UPS suggested that we ask for clarification from you in order to help with the matter. We want to do this safely and legally, so we are contacting you for advice on how this relates to the law.

UPS requires employees handling hazardous materials for shipping to take training courses in order to ship hazardous materials within their system, but for people at home, we believe it is within the requirements of 49 CFR if a person is not shipping batteries as part of their business or employment and is not doing it frequently – in our example an individual would just be shipping a battery once.

**Goal: We want to allow a customer that has our lithium battery (class 9) to mail that lithium battery back to us.**

We believe that in the scope of 49 CFR 107 it is specifying that training is required only for shipments processed by companies and the people that they employ, not for private citizens.

Can you please let us know if this sounds correct? We would like to clarify with UPS:

- a. We do not see anything in the 49 CFR that would prevent us from having a customer return a battery to us – it appears to be accepted and legal to send class 9 packages in non-bulk quantities without training as long as the other packaging and handling regulations are followed – so there’s no need for a special permit exempting us from any 49 CFR regulation
  - i. the 49 CFR requires training programs only for people who **handle hazardous materials as part of their employment**
  - ii. and it does not require permits or registration for this, as detailed in 49 CFR 107.601
  - iii. so my understanding of the situation is that it is **not that it is federally regulated for an individual to occasionally ship a battery that is correctly packed and labeled, but that it is UPS’s policy**
  - iv. see 49 CFR 173.1 (b) and 49 CFR 177.800(c) for specific language that it is the employees of the parties involved that are the people who require training, and 171.8 (definition of *hazmat employee*)
    1. 171.8 defines a *person* and a *hazmat employee* as different
    2. Since our customers are not engaged in this full or part time and aren’t paid for it, they are persons, not hazmat employees.
    3. 49 CFR 172 (H) continues to specify that *hazmat employees* need training, not that *persons* need training

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Alec Burney

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