



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

AUG 01 2019

Del Billings  
Technical Director  
Dangerous Goods Advisory Council  
7501 Greenway Center Drive, Suite 760  
Greenbelt, MD 20770

Reference No. 19-0041

Dear Mr. Billings:

This letter is in response to your April 1, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Materials of Trade (MOTs). In your email, you note the MOT provisions in § 173.6(a)(1) provide for package gross mass limits for materials in packing groups (PG) I, II, III, and for Other Regulated Materials (ORM-D). You also note that hazardous materials without a packing group assigned, such as lithium batteries, do not have a gross mass indicated. You ask whether it was PHMSA's intent to exclude articles from MOTs eligibility and, if not, you request guidance on determining package gross mass limitations for articles such as lithium batteries.

In a final rule published in the *Federal Register* on January 8, 2015, [80 FR 1075], the Pipeline and Hazardous Materials Safety Administration (PHMSA) removed packing group assignments from the § 172.101 Hazardous Materials Table (HMT) entries for many articles (e.g. UN3480, Lithium ion batteries). In the preamble of the final rule we stated "For articles, the packing group does not relate to the degree of hazard posed by the material but rather is assigned generically to the article." The revisions to the HMT were made to provide consistency for all articles listed in the HMT.

It was not our intention in the HM-215M rulemaking to remove articles, such as lithium batteries, from MOTs eligibility. However, under the MOTs exceptions in § 173.6, the packing group assignment is used to determine the maximum gross mass or capacity of a completed package. Because lithium batteries are generally required to be offered in a packaging meeting the PG II performance level as prescribed in § 173.185(b)(3)(ii), lithium batteries transported as MOTs are subject to the same quantity limitations as a PG II hazardous material (30 kg). Thank you for bringing this to our attention. We intend to clarify this matter in a future rulemaking action.

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

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and is positioned to the left of the typed name.

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

Andrews  
§173.6  
MOT  
19-0041

**Dodd, Alice (PHMSA)**

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**From:** DerKinderen, Dirk (PHMSA)  
**Sent:** Monday, April 01, 2019 7:30 AM  
**To:** Hazmat Interps  
**Subject:** FW: § 173.6 Materials of Trade

Alice and Ikeya,

Please enter the below email from Del Billings into our system as request for an interpretation.

Sincerely,  
Dirk DerKinderen

**From:** Kelley, Shane (PHMSA)  
**Sent:** Friday, March 29, 2019 11:25 AM  
**To:** DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>  
**Cc:** Foster, Glenn (PHMSA) <Glenn.Foster@dot.gov>  
**Subject:** Fwd: § 173.6 Materials of Trade

Hi Dirk

Can you please review and if this needs to be treated as an interp, have it logged in appropriately?

Thank you

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**From:** Delmer Billings <[dbillings@dgac.org](mailto:dbillings@dgac.org)>  
**Sent:** Thursday, March 28, 2019 3:38 PM  
**To:** Kelley, Shane (PHMSA)  
**Cc:** Delmer Billings  
**Subject:** § 173.6 Materials of Trade

Shane,

Thank you for the opportunity to speak with you today regarding the provisions in § 173.6 – Materials of Trade for Class 9 and other class/division materials for which a packing group is not listed in the Hazardous Materials Table. The specific materials in question various lithium battery entries which do not list a packing group. The provisions in § 173.6(a)(1) provide for packaging gross mass limits for materials in packing group I and packing groups II and III and for ORM-D materials. However, there is no current guidance on the maximum gross mass for materials in Class 9 without a listed packing group.

We are requesting guidance on what packaging gross mass limits exist for these materials. We recommend that such guidance should be consistent with the gross mass limits for the packing group II and III materials. Additionally, a minor regulatory revision could clarify this issue. For example the regulatory limits in § 173.6(a)(1)(ii) could be revised to read: 30 kg (66 pounds) or 30 L (8 gallons) for a Packing Group II, Packing Group III, or ORM-D material, or a Class 9 material for which a Packing Group is not indicated.

Thank you for your guidance and if we can provide additional information or respond to any questions, please contact me.

Del



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