



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

AUG 30 2019

1200 New Jersey Avenue, SE
Washington, DC 20590

Ryan L. Bodekor, ASHM, CDS
Director of Environmental, Health and Safety, North Division
Advance Auto Parts / General Parts Distribution
4729 Hargrove, Rd
Raleigh, NC 27604

Reference No. 19-0016

Dear Mr. Bodekor:

This letter is in response to your February 7, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers. You describe a scenario in which a package consists of a pallet that contains electric storage batteries filled with acid and totes of other hazardous or non-hazardous materials. We have paraphrased and answered your questions as follows:

- Q1. You ask whether the word "battery" is an acceptable package description, as required in § 172.202(a)(7).
- A1. In this instance, the answer is no. In DOT-SP 16171, the pallet (containing the batteries and the totes of other non-hazardous materials) is the package which must be described on the shipping paper. The word "battery" does not accurately describe this package.
- Q2. You ask whether "BATT" is an acceptable abbreviation.
- A2. In this instance, the answer is no. See A1.

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

Casey

19-0016

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, February 07, 2019 2:30 PM
To: Hazmat Interps
Subject: FW: Interpretation 172.202(a)(7) Special Permit DOT SP-16171
Attachments: SP-16171 General Parts Distribution.pdf; 080174 UN2794 Shipping Paper.pdf

Hello Alice and Ikeya,

Please see the attached documents and the information below.

Thanks,

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

From: Ryan Bodekor [mailto:ryan.bodekor@advance-auto.com]
Sent: Thursday, February 07, 2019 7:55 AM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Interpretation 172.202(a)(7) Special Permit DOT SP-16171

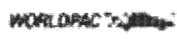
To Whom it May Concern;

Please see attached Special Permit# DOT SP-16171 regarding 49 CFR § 173.159(c)(d) alternative packaging. With regards to number (7) SAFETY CONTROL MEASURES: PACKAGING on page (2), question (2) alternative (2), in which a pallet of batteries, wet, filled with acid, electric storage (UN2794) in which completed layers of batteries may have plastic totes or fiberboard boxes containing conductive, non-hazardous, or compatible hazardous materials placed on top, our question is in regard to packaging type under 49 CFR 172.202(a)(7) which requires the bill of lading to indicate the number of and package type "(for example, '12 Drums')" for a regulated hazardous material entry on a bill of lading.

While the attached Letter of Interpretation # 08-0174 states, "*Because § 173.159(c)(1) requires the battery to be secured to a skid without any further packaging, the description '1 skid, Battery, wet, filled with acid, 8, UN2794, III, 650 pounds' is more appropriate,*" when we have a pallet completed with layers of batteries with plastic totes or fiberboard boxes containing conductive, non-hazardous, or compatible hazardous materials placed on top as listed on our aforementioned Special Permit, will PHMSA accept "Battery" as being a valid description of packaging on the shipping papers as one of the common packaging types making up that pallet (skid)? Under the special permit provisions if PHMSA would accept "Battery" as being a valid description of packaging, based on 49 CFR 172.202(a)(7) "*Abbreviations may be used for indicating packaging types (for example, "cyl." for "cylinder") provided the abbreviations are commonly accepted and recognizable,*" would "BATT" be an acceptable abbreviation?

Regards,

Ryan L. Bodekor, ASHM, CDS
Director of Environmental, Health & Safety | North Division
o. 919.573.3054 | f. 540.283.4025 | m. 571.389.0602
Advance Auto Parts / General Parts Distribution | 4729 Hargrove Road
Raleigh, NC 27604



PASSION FOR CUSTOMERS...PASSION FOR YES!



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JAN 16 2009

Mr. Robert A. Maberry III
Sr. Administrator-Chemical Transportation
Hazardous Materials Dept.
YRCW- North American Transportation
10990 Roe Avenue
Mail Stop A605
Overland Park, KS 66211

Ref. No. 08-0174

Dear Mr. Maberry:

This responds to your letter requesting assistance in determining the description required for an electric storage battery on a shipping paper under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You ask what "number and type of packages" required under § 172.202(a)(7) should be indicated on a shipping paper for a 650-lb electric storage battery containing acid (UN2794) that is secured to a skid conforming to the non-specification packagings authorized for batteries under § 173.159(c)(1). More specifically, you ask whether the description "1 skid, Battery, wet, filled with acid, 8, UN2794, III, 650 pounds" is acceptable or if "1 Battery, Battery, wet, filled with acid, 8, UN2794, III, 650 pounds" would be a more appropriate description.

Because § 173.159(c)(1) requires the battery to be secured to a skid without any further packaging, the description "1 skid, Battery, wet, filled with acid, 8, UN2794, III, 650 pounds" is more appropriate.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of hazardous Materials Standards

Stevens
§ 172.202 (a) (7)
§ 173.159 (c) (1)
Shipping Papers / Battery
08-0174
YRC North American Transportation

June 24, 2008

Office of Hazardous Material Standards, PHMSA
Attn: PHH-10
U.S. Department of Transportation, East Bldg.
1200 New Jersey Ave., SE
Washington, D.C. 20590

Edward T. Mazzullo
Director, Office of Hazardous Materials Standards

Mr. Mazzullo,

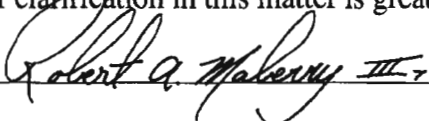
I am requesting a letter of interpretation and clarification in reference to 49 CFR parts 172.202 (a) (7) and 49 CFR 173.159 (c) (1) as they relate to the following example of a Battery, wet filled with acid, 8, UN2794, III.

The battery in this example is a 650 pound battery used for emergency power back up systems in various applications and in remote locations. It is prepared for transportation in accordance with 49 CFR 173.159 (c) (1) and "firmly secured to skids or pallets" as outlined in this part, as non specification packaging authorized for batteries packed without other materials.

49 CFR 172.202 (a) (7) requires the bill of lading to indicate the number and type of packages "(for example, "12 Drums)" for a regulated hazardous material entry on a bill of lading. It is my understanding from previous conversations with the Department of Transportation, that a "pallet or skid" can not "contain" (as a means of restraint) a liquid, solid or gas and therefore is not by definition a "packaging" but an instrument of conveyance. I understand and do not disagree with that explanation. My concern is the appropriate way to describe this battery on a bill of lading in compliance with 172.202 (a) (7) when packaged in accordance with 173.159 (c) (1). Would the description: 1 skid, Battery wet filled with acid, 8, UN2794, III 650 pounds, be in compliance with this section? Does PHMSA accept "Battery" as being a valid description of packaging in the case where there is no external packaging around the battery case? If not what would the correct entry for the above described battery that is secured to a skid or pallet and in compliance with 173.159 (c) (1) on a bill of lading?

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Your clarification in this matter is greatly appreciated.



YRCW- North American Transportation

Robert A Maberry III

Sr. Administrator-Chemical Transportation

Hazardous Materials Dept..

Phone: 913-344-5890

Fax: 913-344-3614

rob.maberry@yrcw.com

September 26, 2014



U.S. Department
of Transportation

East Building, PHH-30
1200 New Jersey Avenue S.E.
Washington, D.C. 20590

**Pipeline and Hazardous
Materials Safety Administration**

DOT-SP 16171
(SECOND REVISION)

(FOR RENEWAL, SEE 49 CFR § 107.109)

1. GRANTEE: (See individual authorization letter)
2. PURPOSE AND LIMITATION:
 - a. This special permit authorizes the transportation in commerce of batteries in alternative packaging by motor vehicle. This special permit provides no relief from the Hazardous Materials Regulations (HMR) other than as specifically stated herein. The most recent revision supersedes all previous revisions.
 - b. The safety analyses performed in the development of this special permit only considered the hazards and risks associated with the transportation in commerce.
 - c. Unless otherwise stated herein, this special permit consists of the special permit authorization letter issued to the grantee together with this document.
3. REGULATORY SYSTEM AFFECTED: 49 CFR Parts 106, 107 and 171-180.
4. REGULATIONS FROM WHICH EXEMPTED: 49 CFR § 173.159(c) and (d) in that alternative packaging is authorized, as provided herein.
5. BASIS: This special permit is based on the application of O'Reilly Automotive Stores, Inc. dated May 22, 2014 submitted in accordance with § 107.105 and the public proceeding thereon and additional information of September 17, 2014.

September 26, 2014

6. HAZARDOUS MATERIALS (49 CFR § 172.101):

Hazardous Materials Description			
Proper Shipping Name	Hazard Class/ Division	Identification Number	Packing Group
Batteries, wet, filled with acid, electric storage	8	UN2794	III

7. SAFETY CONTROL MEASURES: PACKAGING - Prescribed packagings are non-specification packagings as described:

(1) Alternative 1: Gaylord pallet, (a plastic pallet with solid walls) as described in the application, dated May 19, 2014, containing the batteries in no more than two layers provided the top layer allows space between the terminals and the top cover of the pallet. The pallet may be split into two compartments using a plastic divider. The compartment not containing batteries may include compatible hazardous materials. Void space in the compartment containing batteries may be filled with non-hazardous materials. All void spaces within in the pallet must be filled with non-hazardous, non-conducting bracing or cushioning materials to prevent shifting of the batteries during transportation. Additional Gaylord pallets or wood pallets may be stacked on top of the Gaylord pallets and the completed load must be securely shrink- or stretch-wrapped together.

(2) Alternative 2: Batteries are placed on a wooden pallet and shrink- or stretch-wrapped to secure the batteries from movement. When batteries do not fill up the entire pallet area, the remainder of the area may be filled with one or more layers of plastic totes. The totes may contain conductive, non-hazardous, or compatible hazardous materials. Pallets with complete layers of batteries may have plastic totes or fiberboard boxes containing conductive, non-hazardous, or compatible hazardous materials placed on top. The pallet height must not exceed one and a half times the width of the pallet. All contents of a completed pallet must be secured with shrink- or stretch-wrap.

September 26, 2014

(3) Gaylord and wooden pallets must be capable of withstanding, without damage, a superimposed weight equal to two times the weight of the unit or, if the unit exceeds 907 kg (2,000 pounds), a superimposed weight of 184 kg (4,000 pounds).

(4) Batteries that are placed on the wooden pallets must cover the bottom layer to the maximum extent possible prior to creating additional layers.

(5) Battery terminals must be protected in accordance with § 173.159(a)(2). Battery terminals must not be relied upon to support any part of the superimposed weight and must not short out if a conductive material is placed in direct contact with them.

(6) The top of each layer of batteries must be protected by strong corrugated fiberboard or rigid plastic if additional batteries or materials are placed upon them.

(7) Plastic totes or fiberboard boxes containing hazardous materials other than batteries must be packaged in accordance with the HMR.

(8) Non-hazardous conductive materials must be contained in strong outer packagings that are sift-proof if solid or leakproof if liquid.

(9) Each completed wood or Gaylord pallet must be marked and labeled in accordance with the HMR.

8. SPECIAL PROVISIONS:

a. A person who is not a holder of this special permit who receives a package covered by this special permit may reoffer it for transportation provided no modification or change is made to the package and it is reoffered for transportation in conformance with this special permit and the HMR.

b. A current copy of this special permit must be maintained at each facility where the package is offered or reoffered for transportation.

9. MODES OF TRANSPORTATION AUTHORIZED: Motor Vehicle.

September 26, 2014

10. MODAL REQUIREMENTS: A current copy of this special permit must be carried aboard each motor vehicle used to transport packages covered by this special permit.
11. COMPLIANCE: Failure by a person to comply with any of the following may result in suspension or revocation of this special permit and penalties prescribed by the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq:
 - o All terms and conditions prescribed in this special permit and the Hazardous Materials Regulations, 49 CFR Parts 171-180.
 - o Persons operating under the terms of this special permit must comply with the security plan requirement in Subpart I of Part 172 of the HMR, when applicable.
 - o Registration required by § 107.601 et seq., when applicable.

Each "Hazmat employee", as defined in § 171.8, who performs a function subject to this special permit must receive training on the requirements and conditions of this special permit in addition to the training required by §§ 172.700 through 172.704.

No person may use or apply this special permit, including display of its number, when this special permit has expired or is otherwise no longer in effect.

Under Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—"The Hazardous Materials Safety and Security Reauthorization Act of 2005" (Pub. L. 109-59), 119 Stat. 1144 (August 10, 2005), amended the Federal hazardous materials transportation law by changing the term "exemption" to "special permit" and authorizes a special permit to be granted up to two years for new special permits and up to four years for renewals.

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12. REPORTING REQUIREMENTS: Shipments or operations conducted under this special permit are subject to the Hazardous Materials Incident Reporting requirements specified in 49 CFR §§ 171.15 Immediate notice of certain hazardous materials incidents, and 171.16 Detailed hazardous materials incident reports. In addition, the grantee(s) of this special permit must notify the Associate Administrator for Hazardous Materials Safety, in writing, of any incident involving a package, shipment or operation conducted under terms of this special permit.

Issued in Washington, D.C.:



for Dr. Magdy El-Sibaie
Associate Administrator for Hazardous Materials Safety

Address all inquiries to: Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Material Safety Administration, U.S. Department of Transportation, East Building PHH-30, 1200 New Jersey Avenue, Southeast, Washington, D.C. 20590.

Copies of this special permit may be obtained by accessing the Hazardous Materials Safety Homepage at http://hazmat.dot.gov/sp_app/special_permits/spec_perm_index.htm. Photo reproductions and legible reductions of this special permit are permitted. Any alteration of this special permit is prohibited.

PO: LAVALLE