



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

June 17, 2021

Mr. Bob Richard  
President  
Hazmat Safety Consulting  
1765 Duke Street  
Alexandria, VA 22314

Reference No. 21-0022

Dear Mr. Richard:

This letter is in response to your January 27, 2021, letter—received by this Office on March 5, 2021—requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to closure instructions for United Nations (UN) specification packaging. Specifically, you state that your company has audited a client that ships batteries for recycling. Your client receives significant quantities of end-of-life batteries which they then repackage and ship to recycling facilities. Your client transports the end-of-life batteries to the recycling facilities in drums, many of which are UN specification drums that are shipped to them from upstream customers. During the audit, you state that you informed your client that while UN specification packaging is not required for lithium batteries shipped for recycling or disposal, the use of UN specification steel and plastic drums is acceptable. You also informed your client that when UN specification packaging is required for hazardous materials, they must close the packaging in accordance with the manufacturer's closure instructions and maintain a copy of those instructions on-site. You ask whether it is the Pipeline and Hazardous Materials Safety Administration's (PHMSA) position that all of the requirements of the HMR (including closure instructions) would be applicable to a packaging marked as a UN specification packaging even if UN specification packaging is not required by the HMR.

You are correct that in accordance with § 173.185(d), lithium cells or batteries shipped for disposal or recycling do not require the use of UN specification packaging when shipped in strong outer packaging. It is the opinion of this Office that when the HMR does not require UN specification packaging for a hazardous material, the use of UN specification packaging is not subject to the notification requirements specified in § 178.2(c), including closure instructions. However, under § 171.2(g), no person may represent or offer a packaging as meeting the requirements of the HMR unless the packaging is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable requirements of the

HMR. These requirements are applicable whether or not the packaging is used for the transportation of a hazardous material. Therefore, if the specification packaging is not maintained in accordance with the HMR, we recommend you securely cover any identifying marks representing it as such to avoid the potential of a frustrated shipment.

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

Sincerely,

A handwritten signature in black ink that reads "Duane A. Pfund". The signature is written in a cursive style with a large, prominent 'D' and 'P'.

Duane A. Pfund  
Acting Director  
Standards and Rulemaking Division  
Office of Hazardous Materials Safety

**From:** [DerKinderen, Dirk \(PHMSA\)](#)  
**To:** [Hazmat Interps](#)  
**Subject:** FW: Packaging question  
**Date:** Friday, March 5, 2021 1:29:55 PM  
**Attachments:** [image005.png](#)

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Alice/Kenetha,

Please enter the below email from Bob Richard (Hazmat Safety Consulting) as an interp request.

Thanks,  
Dirk Der Kinderen  
Chief, Standards Development Branch  
PHMSA  
202-366-4460

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**From:** Heneghan, John (PHMSA)  
**Sent:** Friday, March 5, 2021 10:59 AM  
**To:** DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>  
**Cc:** Kelley, Shane (PHMSA) <shane.kelley@dot.gov>  
**Subject:** FW: Packaging question

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**From:** Bob Richard [<mailto:brichard@hazmatsafety.com>]  
**Sent:** Wednesday, January 27, 2021 4:05 PM  
**To:** Heneghan, John (PHMSA) <[John.Heneghan@dot.gov](mailto:John.Heneghan@dot.gov)>  
**Cc:** Mike Pagel <[mpagel@hazmatsafety.com](mailto:mpagel@hazmatsafety.com)>  
**Subject:** Packaging question

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

John,

We just audited a client's facility. The client ships batteries for recycling. They are a collection and sorting facility so significant quantities of end of life batteries are shipped to them and they repack them and ship them to a recycling facility.

The client reuses drums that are shipped to them from upstream customers, many of which are UN 1A2 (steel drum) or UN 1H2 (plastic drum) UN Performance Packages. The client inspects each drum for signs of significant dents or structural problems and, those deemed non-serviceable, are not reused. We informed the client that while UN-rated packaging is not required for lithium batteries moving to recyclers, using UN-rated steel and plastic drums is acceptable. The client also ships DDR batteries which do require UN packaging. We informed the client that when UN-rated packagings are required for use by the regulations (e.g., for DDR lithium batteries), they must close the package in accordance with the manufacturer's instructions and keep a copy of those instructions on-site.

What is not entirely clear is whether the client needs to maintain manufacturer closure instructions for the drums when they are used to ship lithium batteries for recycling or disposal since UN packaging is not required. Given the diversity of drums coming in from upstream customers, it would not be feasible for the client to track down closure instructions from each packaging manufacturer. Do you agree that when UN packaging is not required that closure instructions are not required? Is it PHMSA's view that even if a UN package is not required if it is marked as such then all the applicable requirements pertain (e.g. closure instructions)? Covering the specification markings on each drum is not really feasible because they are permanently marked.

Best Regards,

Bob Richard  
President, Hazmat Safety Consulting  
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[www.hazmatsafety.com](http://www.hazmatsafety.com)



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