



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

December 8, 2021

Eva Glimsche  
Lithium Battery Service GbR  
Sperberstr. 50e  
Munich, Germany 81827

Reference No. 21-0099

Dear Ms. Glimsche:

This letter is in response to your October 29, 2021, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to transportation of lithium batteries. We have paraphrased and answered your questions as follows:

- Q1: You ask whether placards are required when shipping an energy storage system classified as “UN3536, Lithium batteries installed in cargo transport unit, 9.”
- A1: The answer is yes. Special provision 389 is assigned to that proper shipping name and states that “the cargo transport unit shall display the UN number in a manner in accordance with § 172.332 of this subchapter and be placarded on two opposing sides.”
- Q2: You ask whether the driver of a motor vehicle transporting an energy storage system classified as “UN3536, Lithium batteries installed in cargo transport unit, 9” is required to have a hazmat endorsement on his or her Commercial Driver’s License (CDL).
- A2: The answer is no. For purposes of 49 CFR Part 383 and the applicability of the CDL hazmat endorsement, a “hazardous material” is defined in 49 CFR 383.5 as a material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under Subpart F of 49 CFR Part 172; or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73. In your scenario, the cargo transport unit does not require placards under Subpart F of 49 CFR Part 172 (see § 172.504(f)(9)).
- Q3: You ask whether the Pipeline and Hazardous Materials Administration (PHMSA) has any current proposals to require the placarding of an energy storage system classified as “UN3536, Lithium batteries installed in cargo transport unit, 9” under Subpart F of 49 CFR Part 172.

A3: The answer is no, PHMSA has no such proposals under consideration at this time. If you believe a rulemaking change is warranted, we invite you to file a petition for rulemaking in accordance with 49 CFR 106.95, 106.100, and 106.105, including all information needed to support your petition. Your request will be evaluated for consideration in a future upcoming rulemaking. For regulations in 49 CFR Parts 171 through 180, please submit the petition to: Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, PHH-10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. Please contact Mr. Steven Andrews in the Regulatory Review and Reinvention Branch of the Standards and Rulemaking Division at 202-366-8553 for more information.

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

Sincerely,

A handwritten signature in blue ink that reads "J. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#); [Hazmat Interps](#)  
**Subject:** FW: Requesting a formal letter of interpretation on UN 3536 placarding  
**Date:** Friday, October 29, 2021 2:29:57 PM

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Good afternoon Alice,

Please see the request for a letter of interpretation below. Please contact our office with any questions.

Best,

Sarah (HMIC)

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**From:** Eva Glimsche <eva.glimsche@lithium-battery-service.de>  
**Sent:** Friday, October 29, 2021 9:16 AM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Re: Requesting a formal letter of interpretation on UN 3536 placarding

**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.

Dear Sarah,

we need and request a formal letter of interpretation on this.

Because the oral information we received won't help when a UN 3536 is stopped during road transport without placards and without hazmat driver.

Best regards

Eva

Eva Glimsche  
Lithium Battery Service GbR - [Sperberstr. 50e - 81827 München](#) - Germany  
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[www.lithium-battery-service.de](http://www.lithium-battery-service.de)

Am 28.10.2021 um 17:32 schrieb INFOCNTR (PHMSA) <[INFOCNTR.INFOCNTR@dot.gov](mailto:INFOCNTR.INFOCNTR@dot.gov)>:

Dear Eva,

We have received your inquiry about the hazardous materials regulations (49 CFR Parts 171-180). The hazardous materials regulations are available at the following URL:

[https://www.ecfr.gov/cgi-bin/text-idx?SID=1d49a3b137cb1b6fc45251074e634b44&tpl=/ecfrbrowse/Title49/49tab\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=1d49a3b137cb1b6fc45251074e634b44&tpl=/ecfrbrowse/Title49/49tab_02.tpl)

A hazardous materials regulatory specialist would be happy to speak with you regarding your inquiry. You may contact the Hazardous Materials Information Center, which is staffed with regulatory specialists who can quickly answer your questions by phone, Monday through Friday, 9 AM - 5 PM EST at +1(202) 366-4488.

Sincerely,

Sarah, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <https://www.phmsa.dot.gov/standards-rulemaking/hazmat/hazardous-materials-information-center>

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**From:** Eva Glimsche <[eva.glimsche@lithium-battery-service.de](mailto:eva.glimsche@lithium-battery-service.de)>  
**Sent:** Thursday, October 28, 2021 10:16 AM  
**To:** INFOCNTR (PHMSA) <[INFOCNTR.INFOCNTR@dot.gov](mailto:INFOCNTR.INFOCNTR@dot.gov)>  
**Subject:** Requesting a formal letter of interpretation on UN 3536 placarding

**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.

Dear PHMSA Team,

herewith I request a formal letter of interpretation on the question:

**1. Is a placarding of an energy storage classified as UN 3536 Lithium batteries installed in cargo transport unit required?**

In subpart F of 49 CFR part 383, §383.93 (b) (4) it reads:

(b) *Endorsement descriptions.* An operator must obtain State-issued endorsements to his/her CDL to operate commercial motor vehicles which are:

(4) Used to transport hazardous materials as defined in §383.5; or

The definition for

*Hazardous materials* means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

And under subpart F of 49 CFR part 172, §172.500 it reads that the only exceptions are for those prepared as described in §173.13.

Yet an energy storage is no combination packaging but an “article” that is being transported either without a packaging or in a CTU (sea container).

So to our understanding a placarding would be required.

## **2. Is a hazmat endorsement required for the driver?**

Subsequently a hazmat endorsement would be required for the driver.

Yet the consensus we received orally so far is that a hazmat endorsement is not required because special provision 389 is not included in 49 CFR, Part 172, Subpart F. A hazmat endorsement is only required in the FMCSA regs when placarding is required by part 172, Subpart F, and the requirement in SP 389 is in Part 172, Subpart B. thus, no hazmat endorsement is required for the driver.

## **3. Considering the large amount of energy in such an energy storage classified as UN 3536 we would like to ask if SP 389 is being discussed to be added to part 172, Subpart F in the near future?**

Thank you very much in advance for answering both questions in a formal letter of interpretation.

Best regards

Eva Glimsche

Eva Glimsche  
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