



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

June 29, 2022

Trent Doyle  
Keller and Heckman, LLP  
1001 G Street, NW  
Washington, D.C. 20001

Reference No. 22-0024

Dear Mr. Doyle:

This letter is in response to your April 7, 2022, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to placarding requirements for certain lead acid battery shipments. You state that “UN2794, Batteries, wet, filled with acid, *electric storage*, 8” will be shipped by a motor carrier from a stateside facility and taken to a port where the batteries will be loaded on a vessel and transported overseas. The batteries will be packaged in intermodal containers that will be placarded and the completed packages will be prepared in accordance with the International Maritime Dangerous Goods (IMDG) Code. Furthermore, you state the motor vehicle portion of the shipment will be transported in accordance with § 173.159(e), which to your understanding provides a general exception from the HMR when batteries containing acid are transported via motor vehicle. Therefore, you ask whether motor vehicle drivers who are transporting these batteries to the port for vessel transportation are required to have a commercial driver’s license (CDL) hazardous materials endorsement in accordance with the Federal Motor Carrier Safety Regulations (FMCSR) even though the intermodal containers are placarded to satisfy the IMDG Code requirements for vessel transportation.

The answer is no. For purposes of the FMCSR, a hazardous materials endorsement on a CDL is required for operation of a motor vehicle used to transport hazardous materials as defined in 49 CFR 383.5. The FMCSR define hazardous materials as 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 material listed as a select agent or toxin in 42 CFR Part 73. Additionally, for purposes of the HMR, if all the requirements provided in § 173.159(e) are met, wet electric storage batteries are not subject to any other requirements of the HMR—including placarding—except for incident reporting requirements found in §§ 171.15 and 171.16. Thus, it is the understanding of this Office, that a driver of a commercial motor vehicle transporting this material would not be subject to the requirements of the FMCSR for a hazardous materials

endorsement on a CDL because the material is neither subject to placarding nor a select agent or toxin.

Note, in accordance with § 172.502(c), placards may be displayed for a hazardous material—even when not required—if the placarding otherwise conforms to the requirements of the HMR and thus permissive placarding does not trigger the requirements for a hazmat endorsement.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a large initial "D".

Dirk Der Kinderen  
Chief, Standards Development Branch  
Standards and Rulemaking Division

**From:** [Kelley, Shane \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#); [Hillman, Kenetha CTR \(PHMSA\)](#)  
**Cc:** [DerKinderen, Dirk \(PHMSA\)](#); [Foster, Glenn \(PHMSA\)](#); [Nickels, Matthew \(PHMSA\)](#)  
**Subject:** Fwd: request for interpretation  
**Date:** Thursday, April 7, 2022 8:17:07 PM  
**Attachments:** [placarding letter of interpretation request April 2022.pdf](#)

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Please process accordingly thank you.

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**From:** Doyle, Trent <Doyle@khlaw.com>  
**Sent:** Thursday, April 7, 2022 4:33:39 PM  
**To:** Kelley, Shane (PHMSA) <shane.kelley@dot.gov>  
**Cc:** DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>  
**Subject:** request for interpretation

**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.

Gentlemen,

Please see attached request for letter of interpretation regarding applicability of placarding requirements to certain lead acid battery shipments.

Let me know if there are any questions about the request. (I note that Ref. No. 15-0075 appears to address a somewhat similar scenario.)

Thank you.

Best regards,



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[PackagingLaw.com](#)

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Law and Science®*

### Trent Doyle

Partner

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**Trent Doyle**  
(202) 434-4161  
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April 7, 2022

**Via Electronic Mail**

Shane Kelley  
Standards and Rulemaking Division  
Pipeline and Hazardous Materials Safety  
Administration  
Attn: PHH-10  
U.S. Department of Transportation, East  
Building  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

**Re: Request for Letter of Interpretation – Placarding Requirements for certain lead acid battery shipments**

Dear Mr. Kelley:

Consistent with 49 C.F.R. § 105.20(a)(4), the purpose of this letter is to request clarification regarding the applicability of placarding requirements under the U.S. Department of Transportation (DOT) hazardous materials regulations (HMR) to the transport of certain lead acid batteries.

Specifically, lead acid batteries (UN2794) are to be shipped from a U.S. facility by motor carrier to a port and then loaded onto a vessel for overseas transport. The batteries will be shipped in intermodal containers and, to facilitate international transport, the shipments will be prepared in compliance with the IMDG Code, which will include placarding of the intermodal containers.

Per 49 C.F.R. § 171.25(a), a hazardous material may be transported to/from/within the U.S. by vessel and by motor carrier in accordance with the IMDG Code provided all or part of the movement is by vessel. 49 C.F.R. § 171.25(b)(1) provides, in part, that for transportation by highway prior to transportation by vessel of a hazardous material in accordance with IMDG Code, the motor vehicle must be placarded in accordance with subpart F of 49 C.F.R. part 172.



Shane Kelley  
Standards and Rulemaking Division  
Page 2

However, in this case, for the ground leg, the batteries will be shipped in compliance with 49 C.F.R. § 173.159(e), and, accordingly, no other requirements of the HMR, including placarding, are applicable.

Considering the above, we understand that because placarding is not required under subpart F of 49 C.F.R. part 172 for the ground leg by virtue of the relief provided under 49 C.F.R. § 173.159(e), the drivers of motor vehicles carrying the batteries in intermodal containers to the port would not need to have a CDL with a hazmat endorsement in accordance with 49 C.F.R. § 383.93(b)(4).

**Please confirm whether PHMSA agrees with this interpretation.**

Thank you for your assistance with this request. Please contact me at (202) 434-4161 or [doyle@khlaw.com](mailto:doyle@khlaw.com) if you have any questions or desire additional information.

Sincerely,

A handwritten signature in black ink that reads "Trent M. Doyle".

Trent Doyle