



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

September 9, 2022

Ty Cox  
Account Manager  
Detroit Scrap Consulting Services  
114 W. Magnolia Street, Suite 400-107  
Bellingham, WA 98225

Reference No. 22-0068

Dear Mr. Cox:

This letter is in response to your June 6, 2022, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transportation of wet batteries filled with acid. You note that the batteries—classified as “UN2794, Batteries, wet, filled with acid, *electric storage*, 8”—are transported for recycling and that you believe that you have met all the conditions for exception from further regulation under the HMR as provided in § 173.159(e).

We have paraphrased and answered your questions as follows:

- Q1. You ask for confirmation that the transport of your company’s batteries is eligible for the exception from the requirements of the HMR as currently specified in § 173.159(e).
- A1. The answer is yes, if the conditions for exception as provided in § 173.159(e) are met. This Office is unable to verify the accuracy of your statement beyond your assertion that you believe your company has satisfied all listed conditions. Lastly, PHMSA notes that transport of UN2794, Batteries, wet, filled with acid, *electric storage*, 8 for purposes of recycling is not one of the required conditions.
- Q2. You ask whether transport of these batteries—while utilizing the exception provided in § 173.159(e)—relieves you of the requirement to employ a driver that is “hazmat certified” and the need to declare the materials as hazardous on the bill of lading for transportation by rail.
- A2. The answer to both questions is yes. A shipment of these batteries prepared in accordance with § 173.159(e) that is transported by highway or rail is not subject to any of the requirements of the HMR—including shipping papers (i.e., declaring the material on

a bill of lading)—with the exception of incident reporting requirements in § 171.15. Furthermore, the driver who is transporting these batteries in accordance with this exception is not required to have a commercial driver’s license (CDL) hazardous materials endorsement in accordance with the Federal Motor Carrier Safety Regulations. The hazardous materials endorsement is required when transporting materials required to be placarded according to 49 CFR Part 172, or when transporting certain Select Agents and Toxins (*see* 49 CFR §383.5 for the definition of Hazardous Materials for CDL hazardous materials endorsement purposes).

Q3. You ask whether the provisions in § 173.159(e) except these batteries from the requirements of the HMR when they are transported by vessel for recycling.

A3. The answer is no. The exception from the requirements of the HMR provided in § 173.159(e) is applicable only to shipments transported by highway or rail.

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', is positioned above the typed name.

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

**From:** [INFOCNTR \(PHMSA\)](#)  
**To:** [Dodd, Alice \(PHMSA\)](#)  
**Subject:** FW: Interpretation Request - Detroit Scrap // UN 2794, Batteries, wet, filled with acid, Class 8 for recycling  
**Date:** Friday, July 1, 2022 11:01:31 AM

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Hi Alice,

Please see the below interpretation request.

Let us know if you need anything.

Regards,

Josh

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**From:** Tyler Cox <tyler@detroit scrap.com>  
**Sent:** Monday, June 6, 2022 5:27 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>; INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** Brad W. Rudover <brad@detroit scrap.com>; Craig Klapa <craig@detroit scrap.com>; Mikey Murray <michael@detroit scrap.com>  
**Subject:** Interpretation Request - Detroit Scrap // UN 2794, Batteries, wet, filled with acid, Class 8 for recycling

Hello,

I am writing to request a formal interpretation for materials that are classified as UN 2794, Batteries, wet, filled with acid, Class 8 for recycling under the 173.159(e) exemption in the 49 CFR.

- Specifically, we seek confirmation that the shipment of our company's UN2794 batteries are eligible for the exemption from the requirements of the HMR as currently specified in § 173.159(e).
  - If exemption applies, it seems we would not need a HazMat certified driver to transport the materials on the highway nor would we need to declare the materials as HazMat on the Bill of Lading for rail movement.

- Additionally, we seek clarification in regards to whether or not UN 2794, Batteries, wet, filled with acid, Class 8 for recycling are exempt from HMR when transported on vessels.

**I believe we have met all other requirements for shipping under this exemption.**

- (1) No other hazardous materials will be transported in the same vehicle;
- (2) The batteries will be loaded or braced so as to prevent damage and short circuits in transit;
- (3) No other materials will be loaded in the same container or vehicle that could make contact with or damage to the batteries. In addition, as the batteries are on pallets, they will be stacked in an way as to not cause damage to another pallet under conditions normally incident to transportation (Packaging group III performance level);
- (4) The shipment is for recycling, however the transport vehicle will not carry material shipped by any person other than the shipper of the batteries;
- (5) Shipments made under this paragraph will be subject to the incident reporting requirements in § 171.15.

Regards,

**Ty Cox**

Account Manager

309.989.0015

[Detroit Scrap Consulting Services Ltd](#) & [Scrap University](#)



