



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JUN 16 2016

Mr. Mike Casas
E.V. Logistics Coordinator
Kinsbursky Brothers, Inc.
125 East Commercial Street, Suite A
Anaheim, CA 92801

Reference No. 15-0210

Dear Mr. Casas:

This letter is in response to your October 21, 2015, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to lithium batteries. Specifically, you ask if a lithium battery or cell that has been damaged (e.g. burned, crushed, cut, etc.) to a degree that it no longer meets the definition of a battery or cell, as set forth in the United Nations (UN) Manual of Tests and Criteria Sub-section 38.3, is still considered a lithium battery to be shipped under the requirements in § 173.185?

In order for a lithium battery or cell to no longer be subject to § 173.185 of the HMR, it (1) can no longer meet the definition of a battery or cell in Section 38.3.2.2. of the UN Manual of Test and Criteria, or (2) can no longer be identified as being damaged or defective such that it does not conform to the type tested in accordance to the applicable provisions of the UN Manual of Test and Criteria. In addition, a cell or battery would no longer be subject to § 173.185 of the HMR if:

- The battery is cut into separate pieces, which no longer meet the definition of any hazard class including hazardous materials or hazardous waste; or
- The battery does not meet the definition of being damaged or defective (regardless of the voltage across the terminals).

However, it is still the shipper's responsibility to properly class and describe the hazardous material in accordance with § 173.22 and to meet the applicable requirements in the HMR.

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention
Standards and Rulemaking Division

Andrews
\$173.185
Batteries
15-0210

Dodd, Alice (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Monday, October 26, 2015 3:51 PM
To: Hazmat Interps
Subject: FW: Interpretation letter request - Lithium batteries
Attachments: Interpretation request letter.docx; Interpretation request letter.pdf; FW: Special Permit response 16582-N; 16582-2015100056-Denial Letter.pdf; application.doc

Dear Shante and Alice,

Attached is a request for a formal letter of interpretation. Mr. Casas spoke with Eamonn Patrick in the HMIC.

Thanks,
Shelby

From: Mike Casas [<mailto:mcasas@Kinsbursky.com>]
Sent: Monday, October 26, 2015 1:28 PM
To: PHMSA HM InfoCenter
Subject: Interpretation letter request - Lithium batteries

Please find attached an interpretation request, as well as supporting documentation. I appreciate your guidance in this matter and look forward to your response.

Thanks and regards,

Mike Casas | E.V. Battery Logistics Coordinator
Kinsbursky Brothers, Inc. | www.kinsbursky.com
125 East Commercial Street | Suite A | Anaheim, CA 92801
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Affiliates | www.retrievtech.com | www.biggreenbox.com | www.lithchem.com

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107.105(a)(2)

- **Name** – Spectrum Brands Inc
- **Address** – 3001 Deming Way. Middleton, WI. 53562
- **Email** – Richard.Weinberger@Spectrumbrands.com
- **Telephone** – 608-742-5373 Ext. 238
- **Company CEO** - Andreas Rouvé (Spectrum Brands)
- **Physical Address Associated with Special Permit Use** – Spectrum Brands – Portage Plant located at: 2851 Portage Road. Portage, WI. 53901.
- **Plant Manager** – Dave Young
- The **DUNS #** for Spectrum Brands Inc. is 00-195-1946 and is the number used for all locations.

107.105(a)(3)

- N/A

107.105(a)(4)

- N/A

107.105(a)(5)

- **Registration #**: 070615001013XZ
- **Name**: Spectrum Brands Inc

107.105(c)(1)

- **Specific regulation** - 49CFR 173.185, ruling on inner packaging requirement. We feel that we are exempt due to 173.185(a)(6)(d) listed below.

107.105(c)(2)

- **Proposed mode of transportation** – Motor vehicle transportation.

107.105(c)(3)

- We are seeking permit that will allow us to ship dead lithium metal cells in oil. These cells are placed in a 30 gallon, UN rated 1A2 (removable head steel drum). The cells are then filled to about 8-10 inches from the top of the drum. On top of the cells there is a layer of mineral oil filled to about 2-4 inches from the top of the drum. We would need this permit if it's ruled that

we don't meet the requirements for inner packaging. We would ask to have this permit for 2 years to ship this hazardous waste.

- **Labeling** – It has a hazardous waste label affixed, a dangerous when wet placard, and the description "Scrap Lithium Cells in Oil".



107.105(d)(3)

- **Identify Hazards** – The cut cells often have the lithium exposed which is why we covered them with mineral oil. So if water is able to contact the lithium that would be a potential hazard.
- **Potential Failure Modes** – Mineral oil is a class III combustible liquid. If a battery wasn't dead and somehow mixed in it would have the potential to short.
- **Probability of Occurrence** – All of the damaged or cut lithium cells don't have any charge and would not be susceptible to a short circuit by contacting another cell during transportation. It would take an operator error to place an incorrect cell in the drum. So I would say the probability would be less than 0.1%
- **Risk Mitigation** - The lithium is covered in mineral oil to prevent contact with water and oxygen. The 30 gallon drums of lithium cells in oil are held on the facility for months. They are collected at an accumulation point and transported to our outside chemical shed for up to 9 months. We've also transported our cut/dead lithium cells in oil for 15 years+ without an incident.

173.185(a)(1)

- These Rayovac cells and batteries have passed the UN model regulations, manual of test and criteria, part III, subsection 38.3

173.185(a)(2)

- Precludes a violent rupture under conditions normally incident of transportation

173.185(a)(6)(d)

- Our facility is only sending dead batteries to the disposal facility so we are protected against short circuits and are packed in a strong outer packaging conforming to requirements §§ 173.24

and 173.24a. We believe this would except us from the specification packaging requirements of paragraph (a)(4) regarding inner packaging.