



U.S. Department  
of Transportation

Research and  
Special Programs  
Administration

400 Seventh Street, S.W.  
Washington, D.C. 20590

AUG 5 1998

Mr. Robert A. Maberry III  
Chemical Transportation Administrator  
Yellow Freight System, Inc.  
P.O. Box 7270/66207  
Overland Park, KS 66211

Ref. No: 98-0168

Dear Mr. Maberry:

This is in response to your letter dated June 30, 1998, requesting clarification on shipping paper requirements pertaining to net weight and gross weight under the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). Specifically, you ask whether an overpack containing one package of hazardous material and one package of unregulated material may be described with the gross weight of the entire overpack.

The answer is yes. In accordance with § 172.202(a)(5), the total quantity for each hazardous material description may be indicated as net or gross weight, capacity, or as otherwise appropriate. If gross weight is indicated, net weight is not required. Net weight is the weight of the contents within the packaging (i.e., 5 pounds). As defined in § 171.8, gross weight is the weight of the packaging plus the weight of its contents (i.e., 60 pounds, where 5 pounds is the hazardous material and 55 pounds is the packaging).

I hope this satisfies your request.

Sincerely,

Delmer F. Billings  
Chief, Regulations Development  
Office of Hazardous Materials Standards

BAH

File: 172.202



YELLOW FREIGHT SYSTEM, INC. P.O. BOX 7270 / 66207 • 10990 ROE AVENUE / 66211 OVERLAND PARK, KANSAS (913) 345-3000

30<sup>th</sup>  
June 31, 1998

98-0168

Mr. Edward Mozzullo  
Director of Hazardous Material Standards  
U.S. Dept. of Transportation / RSPA (DHM)  
400 7th Street S.W.  
Washington, D.C. 20590

Mr. Mozzullo,

I am requesting an interpretation of the requirements imposed by 49 CFR 172.202 (A) (5). If a person, packages Battery fluid, acid, 8, UN2796, II in a plastic receptacle and places it into a 4G corrugated box (combination packaging / 49 CFR 171.8) as allowed by 49 CFR 173.202, then packages a non-regulated, dry battery in a separate 4G corrugated box, we now have two independent packages (49 CFR 171.8). These two packaging, are now placed into a overpack (49 CFR 171.8) and properly marked and labeled. We now have two separate packaging, one a regulated hazardous material and one a non regulated commodity in the same overpack.

49 CFR 172.202 (a) (5), states that the shipping paper must state the total quantity (by net or gross mass, capacity or otherwise appropriate), including the unit of measurement **OF THE HAZARDOUS MATERIAL COVERED BY THE DESCRIPTION.**

In this case the weight of the battery which is separately packaged and is **not a regulated commodity** should not included in the weight of the hazardous material as it is not a part **"OF THE HAZARDOUS MATERIAL COVERED BY THE DESCRIPTION."** That description being "Battery fluid, acid, 8, UN2796, II."

I therefore conclude that the *most appropriate* description in compliance with 49 CFR would be as follows:

not on shipping papers

- 1 carton, said to contain, one box of Battery fluid, acid, 8, UN2796, II weighing 5 lbs. and one box of non regulated battery, dry, weighing 55 lbs. total 60 lbs

The above description clearly identifies the weight of both the regulated hazardous material and the non regulated commodities in the carton (overpack). I believe the above description both complies with CFR 49 regulations and accurately *communicates* to emergency responders the true amount of hazardous materials in the carton, which allows the emergency responders to better access the danger represented in an emergency situation.

I appreciate your review of my analysis and your written interpretation or correction to my understanding of the 49 CFR regulation.



Page 2

Should you need to contact me, feel free to call me at (913) 344-5890 and thank you for your help in this matter.

Sincerely,

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Robert A. Maberry III.  
Chemical Transportation Administrator

cc: Environmental Services Dale Goetz  
Legal Jerry Bowlin  
File