



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAR 17 2016

Cynthia M. Walczak, CHMM, PE
MPS Group
38755 Hills Tech Drive
Farmington Hills, MI 48331

Ref. No. 15-0163

Dear Ms. Walczak:

This responds to your letter of July 31, 2015 and subsequent telephone conversations with a member of my staff requesting clarification on lithium battery shipments under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

- Q1. When shipped by ground for purposes of disposal or recycling in conformance with § 173.185(d), may smaller lithium ion batteries and smaller lithium metal batteries (as specified by the size limits in § 173.185(c)(1)(i) and § 173.185(c)(1)(ii), respectively) be shipped in the same package?
- A1. Yes. Hazardous materials may be packaged together with other hazardous and non-hazardous materials as prescribed in §§ 173.21 and 173.24(e)(4) of the HMR. In doing so, it is the shipper's responsibility to determine whether the mixing of a material in the same packaging, freight container, or overpack with another material is likely to cause dangerous conditions, such as a dangerous evolution of heat or flammable vapors. Please note the gross weight limitation of 30 kilograms (66 pounds) per package, as specified in § 173.185(c)(1)(vi).
- Q2. Can a single handling marking be used to indicate that both smaller lithium metal batteries and smaller lithium ion batteries are contained inside the same package?
- A2. Yes. Based on the information and example handling marking that you have provided, it is the opinion of this Office that a single handling marking may be used to indicate that the package contains both lithium metal and lithium ion batteries. For transportation by ground or vessel, proper hazard communication includes the marking requirement found in § 173.185(c)(3)(i)(A). Specifically, § 173.185(c)(3)(i)(A) requires that the outer package be marked with an indication of the type of lithium cells or batteries contained in the package (i.e., whether the package contains lithium ion cells or batteries, lithium metal cells or batteries, or both types of lithium cells or batteries). This marking must reflect the hazardous materials contained in the package; if the package contains both lithium ion and lithium metal batteries, then the

handling marking must indicate that both are present in the package. Similarly, a package containing only lithium ion batteries, or only lithium metal batteries, cannot be marked with an indication that both types of lithium batteries are present.

On November 23, 2015, PHMSA published the HM-260 final rule, "Hazardous Materials: Editorial Corrections and Clarifications (RRR)," which amended § 173.185(c)(3)(i)(A) to state: "An indication that the package contains 'Lithium metal' and/or 'Lithium ion' cells or batteries, as appropriate..." (*see* 80 FR 72917). In the regulatory text of § 173.185(c)(3)(i)(A) prior to the HM-260-related amendment, the use of the word "or" was not intended to prohibit smaller lithium ion and smaller lithium metal batteries from being shipped in the same package. The "or" was intended to ensure that the type(s) of lithium batteries inside the package are accurately indicated on the prescribed marking. Nevertheless, PHMSA made this amendment in HM-260 to improve clarity regarding the marking requirements.

Please also note that, in addition to the marking requirement found in § 173.185(c)(3)(i)(A), the marking requirements specified in §§ 173.185(c)(1)(iii) and 173.185(c)(1)(iv) might also apply.

I hope this answers your inquiry. If you need additional assistance, please contact this Office again.

Sincerely,



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

Xesko
173.185(d)
Lithium Cells and batteries
15-0163

Goodall, Shante CTR (PHMSA)

From: Geller, Shelby CTR (PHMSA)
Sent: Monday, August 03, 2015 2:50 PM
To: Hazmat Interps
Subject: FW: Request for Interpretation Letter on Shipping Smaller Lithium Cells and Batteries for Recycling under 49CFR173.185(d)
Attachments: Request for Interpretation Letter 173.185d.pdf

Dear Shante and Alice,

Forwarded is a request for a formal letter of interpretation.

Thanks,
Shelby

From: Walczak, Cindy [<mailto:CWalczak@mpsgroup.com>]
Sent: Friday, July 31, 2015 5:02 PM
To: PHMSA HM InfoCenter
Cc: Weems, Donald; Nacker, Rodney
Subject: Request for Interpretation Letter on Shipping Smaller Lithium Cells and Batteries for Recycling under 49CFR173.185(d)

Attached please find a Request for Interpretation Letter in regards to shipping smaller lithium batteries for recycling under 49CFR173.185(d).

Your assistance is very much appreciated. Please call or email me if you have any questions or require additional information.

Thank you.

--
Cindy Walczak, CHMM, PE
Project Manager

MPS Group
38755 Hills Tech Drive
Farmington Hills, MI 48331

(313) 841-7588



Letter Sent Via Email

July 31, 2015

U.S. Department of Transportation
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

RE: Request for Interpretation Letter on Shipping Smaller Lithium Cells and Batteries for Recycling under 49CFR173.185(d)

I am requesting that the Pipeline and Hazardous Materials Safety Administration provide clarification in regards to shipping smaller lithium cells and batteries for recycling under 49CFR173.185(d). Specifically, would PHMSA please address the following:

1. When shipped by ground and in compliance with 49CFR 173.185(d), may smaller lithium ion batteries and smaller lithium metal batteries ship in the same package?
2. If yes, can a single label be used to identify that both lithium metal and lithium ion batteries are contained inside the package?

Thank you for your assistance. Please call or email me if you have any questions or require additional information. I can be reached at (313) 841-7588 or cwalczak@mpsgrp.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia M. Walczak".

Cynthia M. Walczak, CHMM, PE