



THE HAZMAT NEWS NETWORK



Regulatory Resources, Inc. 240 Joshua Road Kennewick, WA 99338

Voice: 509-628-1020 — Fax: 509-628-0972 — email: newsletter@regulatoryresources.net — www.regulatoryresources.net — May-June 2011

BACK AGAIN! I hope you are enjoying your summer. Welcome to the May/June 2011 edition of our newsletter. This free service is available to anyone. Please forward this to others you think will benefit. And, make sure and pray for the folks in the 'tornado' belt this year and those being deluged by flooding...their summer may not be going too well.



ON NOVEMBER 20, 2010, PHMSA ISSUED A LETTER (Ref. No. 10-0139) to respond to a question concerning the shipping paper entry for battery fluid packed with a motorcycle. Here's the picture being painted: A motorcycle preparing for shipment is loaded into a crate (wooden I assume). In each crate is one 'carton' of approximately 0.85 liters (850 cc) battery fluid (acidic) as a limited quantity. The question to PHMSA concerns the accuracy and adequacy of the accompanying shipping paper.

Now let's stop and ponder this a minute. We have battery fluid (acidic) packed in a case that contains a motorcycle. I'm going to make a couple of 'assumption' here. First, I assume the motorcycle is not a scale-model version but rather a NORMAL motorcycle (and given the shipping document indicates 612 lbs each). Second, since the crate does contain a NORMAL motorcycle along with battery fluid, I'm going out on a limb here and assume there's a battery somewhere in the crate. Whew', I hope that's not too much of a stretch.



DOT expounds on the original question by discussing the packaging configuration and then gets into some of the "required" and excepted markings. What a mess. Now keep the picture of the packing configuration in mind...wooden crate containing a motorcycle and a 'carton' of battery acid.

First, let's talk about the packagings. PHMSA states that the shipping paper "...does not properly indicate each carton of limited quantity battery acid within a combination package that consists of a crate as the outer packaging (see 173.154)." Where in the world did this come from? Let's just "pretend" this is actually a limited quantity combination packaging configuration. Isn't 612+ pounds greater than the 66 pounds ltd qty gross weight limit? My gosh man! Since LQ is out, based on PHMSA the battery fluid is, in reality, packed with the battery in one packaging. When this situation exists, the battery fluid must be packaged under §173.159(g) or (h), not §173.154 (Special Provision N6). This means the use of a specification UN Standard packaging. I'm stretching a bit here again but have you ever seen or known of a motorcycle being shipped in a UN 4C, or 4D, or 4F wood box or UN 4G fiberboard box? I'd love to witness the drop test on that configuration...ouch.

It's time to get a bit serious here. Remember this little **Golden Rule** that applies to all but one situation I'm aware of: SOMETHING HAS TO BE THE PACKAGE. In this case, the battery acid is packed in a carton. At a minimum this packaging must meet Part 173 Subparts A and B to qualify for limited quantity under §173.154. Given the acidic solution is in a carton we can deduce it is already in a combination configuration, and therefore, already compliant with the §173.154 limited quantity provision. Since the battery fluid packaging is "the package", the required hazard communications should be placed directly on this 'carton'. The crate containing the motorcycle now becomes an overpack for the limited quantity of battery fluid. Communication requirements for overpacks are located in §173.25(a). The real point that should have been brought out here is that the battery fluid can be reclassified to ORM-D and shipped as a Consumer Commodity in which case a shipping paper is not even required!!!! (§172.200(b)(3)) My gosh man!

But wait, there's more. PHMSA states in the letter that "...the HMR require the outside of a non-bulk package containing a hazardous material liquid to be properly marked with the directional arrows package marking in the correct orientation, as prescribed in §172.312(a)(2)." Sounds good and is certainly highly recommended but is it true? Sadly, no. PHMSA failed to mention that the marking is not required if the receptacle used is hermetically sealed (§172.312(c)(5)). DOT defines this to mean: "closed by fusion, gasketing, crimping, or equivalent means so that no gas or vapor can enter or escape." I gotta ask, does anyone ever ship battery acid in a container that allows leakage...you know, the ol' stopper in the beaker? Quick test, grab a bottle of water or coke. Is the acid in anything less? Come on PHMSA, if you expound, make sure to expand the expounding to include all the extra expound-stuff.

I guess the real point here is to take a close look at shipping the battery fluid as a Consumer Commodity and get rid of the shipping paper requirement altogether. You still have some time left. Once you've done this, pick up a pen and write PHMSA letting them know just how ridiculous it is to get rid of the ORM-D exception domestically. Well...get writing, there's no time to lose!

NEED THE LATEST DOCKET INFO but just don't have the time to check out the Federal Register each day? Would you like to know what's happening in the international scene that'll be here in the USA soon? Then you need to check out "*The Journal of HAZMAT Transportation*"; a publication that dedicates itself to the domestic and international hazardous materials regulations. Look it up: www.hazmatship.com.





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Regulatory Resources' 2011 Compliance Training Schedule				
Date	Course No.	Course	Location	Where
July 26-29	203 & 402	DOT & ICAO Class 7 P&T for Shippers	Richland, WA	Hampton Inn
Aug 24-25	204	DOT Explosives Packaging & Transport	Santa Fe, NM	Cities of Gold

Cities of Gold Hotel
 10A Cities of Gold Road
 Santa Fe, NM 87506
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Hampton Inn
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 Richland, WA 99352
 800-560-7809
 509-943-4400
<http://hamptoninn.hilton.com/en/hp/hotels/index.jhtml?ctyhocn=PSCRLHX>

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We'll keep you posted as other workshops are scheduled, including our Advanced DOT Waste P&T, Advanced DOT Class 7 P&T and Advanced RCRA/NRC/DOT Mixed Waste P&T. Visit our website for the latest information!