



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

JAN - 8 2010

1200 New Jersey Avenue, SE
Washington, DC 20590

Mr. Harold R. Clark
President
Fanwood-Scotch Plains Recycling Association
216 Second Street
Fanwood, NJ 07023

Ref. No. 09-0295

Dear Mr. Clark:

This responds to your November 23, 2009 letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the transport of discarded household batteries. DOT has issued several letters including a letter issued on June 23, 2009 (Ref. No. 09-0090) and August 13, 2009 (Ref. No. 09-0150), in which we provide interpretation on the applicability of the HMR to the transportation of various types and sizes of used dry cell batteries. We have since revised those interpretations (see Ref. No. 09-0090R and Ref. No. 09-0150R).

After further consideration and analysis of dry battery chemistries and sizes and based on information available to us, it is the opinion of this Office that used or spent dry, sealed batteries of both non-rechargeable and rechargeable designs, described as "Batteries, dry, sealed, n.o.s." in the Hazardous Materials Table in § 172.101 of the HMR and not specifically covered by another proper shipping name, with a marked rating up to 9-volt are not likely to generate a dangerous quantity of heat, short circuit, or create sparks in transportation. Therefore, used or spent batteries of the type "Batteries, dry, sealed, n.o.s." with a marked rating of 9-volt or less that are combined in the same package and transported by highway or rail for recycling, reconditioning, or disposal are not subject to the HMR. Note that batteries utilizing different chemistries (i.e., those battery chemistries specifically covered by another proper shipping name) as well as dry, sealed batteries with a marked rating greater than 9-volt may not be combined with used or spent batteries of the type "Batteries, dry, sealed, n.o.s." in the same package. Note also, that the clarification provided in this letter does not apply to batteries that have been reconditioned for reuse.

I hope this answers your inquiry. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

216 Second Street
Fanwood, NJ 07023
November 23, 2009

Leary
§ 172.101
Batteries
09-0295

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Ave., SE
Washington, DC 20590

Dear Administrator:

I am writing on behalf of the Fanwood-Scotch Plains Recycling Association to express our deep concern and disappointment at the unintended consequences of ill-conceived federal regulations concerning battery recycling.

In April, your agency issued clarification on regulations, now requiring that batteries being transported for recycling, other than 1.5 V alkaline batteries, either be in individual plastic bags or have their terminals covered by tape to prevent discharge of residual power that might spark a truck fire. Evidence cited was 3 fires over the course of 3 years.

In light of this action, our Association has decided it will have to discontinue its 25 year old service of collecting and recycling used batteries. It is too labor intensive for our all volunteer, self-funded organization to get the batteries we collect into the required condition or, even if the public could be educated to properly prepare their batteries before dropping them in the barrel, to ensure that everyone did. Our county is likewise discontinuing its recycling program.

We do realize that for household batteries, only the rechargeable ones are required by law to be recycled because of the hazardous materials they contain, but most people do not know of this requirement nor is it always easy to tell what type of battery one has. Residents will now have to determine if their batteries are rechargeable or not, and take their rechargeable batteries to local stores that participate in the Rechargeable Battery Recycling Corporation program. In contrast, our county and Recycling Association collect all types of batteries, and let the vendor sort them in a process that is cost-effective for them because of volume. Even batteries that do not have to be recycled may still contain materials that can contaminate ground water or air, if incinerated

The practical effect of your regulations is to make recycling of batteries more difficult, and, faced with such impediments; most people will simply not bother and will instead toss all batteries into the trash. This means more batteries with toxic materials will be entering our landfills, potentially contaminating our soil and water supplies or our air.

Of course we realize that the Department of Transportation is responsible only for weighing risk associated with transportation, but in an overall evaluation of risk, we would far prefer the very low risk of a few truck fires to the risk of contamination of our nation's soil, water, and air.

We would urge you to reconsider this regulation or at least find a less onerous way to achieve the necessary safety by transportation in an inert atmosphere or sealed container or some other technical fix.

Thank you for your consideration of this issue.

Sincerely yours,

A handwritten signature in black ink that reads "Harold R. Clark". The signature is written in a cursive style with a large initial "H".

Harold R. Clark, President

Fanwood-Scotch Plains Recycling Association