



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

1200 New Jersey Ave. S.E.
Washington, DC 20590

JUN 28 2007

Mr. George Kerchner
Wiley Rein LLP
1776 K. Street, NW
Washington, D. C. 20006

Ref. No.: 07-0107

Dear Mr. Kerchner:

This responds to your letter dated May 15, 2007 regarding use of overpacks for "consumer-type Lithium Batteries" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

According to your letter, battery companies utilize pallets to consolidate packages (e.g., a single package may contain up to 100 small consumer-type lithium batteries), and a number of these packages may be placed on a pallet and secured with stretch-wrap. The individual packages are packed in accordance with §§ 173.185(b) and 173.185(c) of the HMR, and/or Special Provision A45 of the International Civil Aviation Organization's Technical Instructions for the Transport of Dangerous Goods by Air (ICAO Technical Instructions), and do not exceed the 30 kg weight limitation. You ask if a stretch-wrapped pallet used to consolidate such packages is considered an overpack in accordance with § 173.25 of the HMR and Part 5, Chapter 1 of the ICAO Technical Instructions, and whether the gross weight of the pallet may exceed 30 kg.

The HMR define an overpack as an enclosure that is used by a single consignor to provide protection or convenience in handling of a package or to consolidate two or more packages. Section 171.8 provides the following examples of overpacks: (1) one or more packages placed or stacked onto a board such as a pallet and secured by strapping, shrink-wrapping, stretch-wrapping or other suitable means; or (2) one or more packages placed in a protective outer packaging, such as a box or a crate.

Packages inside of the overpack must meet the prescribed packaging requirements under the HMR and the quantity limitations per package, 35 kg aboard cargo aircraft, prescribed in the § 172.101 Table, Column 9B. Special Provision A100 forbids transportation of primary lithium batteries aboard passenger-carrying aircraft. Under the ICAO Technical instructions, Special Provision A45 specifies, except in the case of lithium batteries packed with equipment, packages may not exceed 30 kg gross mass. When labels and markings are not visible through the overpack, they must be duplicated on the outside of the overpack. The packaging scenario described in your letter constitutes an overpack in



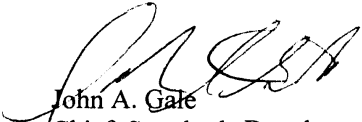
070107

173.185
173.25

accordance with both the HMR and the ICAO Technical Instructions, and the gross weight of the pallet may exceed 30 kg.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
MCLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

Engrum
§173.185
Lithium Battery
07-0107

May 15, 2007

George Kerchner
202.719.4109
gkerchner@wileyrein.com

VIA FACSIMILE

Mr. Edward Mazullo
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request for Interpretation on Use of Overpacks for Lithium Battery Shipments

Dear Mr. Mazullo:

I am writing to request an interpretation on the use of pallets for shipping packages containing small, consumer-type lithium batteries that are excepted from regulation pursuant to 49 CFR 173.185 of the HMR and Special Provision A45 of the ICAO Technical Instructions.

Battery companies frequently utilize pallets to consolidate packages that contain lithium batteries. For example, a single package may contain up to 100 small, consumer-type lithium batteries and a number of these packages may be placed on a pallet and secured with stretch-wrap. The individual packages are packed and marked pursuant to 49 CFR 173.185(b), 173.185(c), and/or Special Provision A45 of the ICAO Technical Instructions. In addition, the individual packages do not exceed the 30 kg weight limitation referenced in Special Provision A45(e)(iv).

It is my understanding that when a pallet is used to consolidate these packages it is considered an Overpack for purposes of regulation under 49 CFR 173.25 and Part 5, Chapter 1 of the ICAO Technical Instructions and is not subject to a 30 kg weight limitation. My questions therefore pertain to the use of these pallets as Overpacks and weight limitations.

1. Can pallets be used as Overpacks to consolidate packages containing small, consumer-type lithium batteries provided that the packages are compliant with the packaging and marking requirements referenced in 49 CFR 173.185(b), 173.185(c), and/or Special Provision A45 of the ICAO Technical Instructions?
2. If a pallet is authorized as an Overpack as described in the scenario above, can the gross weight of the pallet exceed 30 kg?