



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

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

MAR 18 2009

Mr. Terry Campbell
U.S. Battery Manufacturing Company
1675 Sampson Avenue
Corona, CA 92879

Ref. No.: 07-0223

Dear Mr. Campbell:

This is in response to your November 13, 2007 letter regarding stowage of batteries transported by vessel under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the requirement specified in § 176.76(a)(6) is satisfied by the use of a level 1 dunnage air bag.

In accordance with § 176.76(a)(6), any slack spaces between packages must be filled with dunnage. The HMR do not specify the type of dunnage required nor, in the event a dunnage air bag is used, do the HMR specify the type of air bag. Any suitable air bags may be used as dunnage. Under § 176.76(a)(2), all packages in a transport vehicle or freight container must be secured to prevent shifting. If it is your experience that a level 1 air bag will satisfy the requirements in § 176.76 paragraphs (a)(2) and (6), you may use them to provide dunnage.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



Pollack
§176.76 (a)(6)
Vessel
07-0223

13-November-2007

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Dear Mr. Mazzullo,

Recently, during an inspection of one of packed overseas containers, an issue came up that we would respectfully request clarification on.

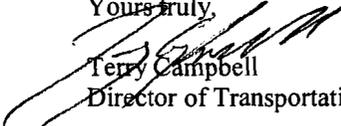
U.S. Battery's understanding under CFR 49 sec. 176.76 (a) (6), is that slack spaces between pallets must be filled with dunnage. In order to comply with the regulation, we use a level 1 airbag to fill the space between the pallets of batteries. To date, we have not had one instance of the product shifting during transportation.

During an inspection by the United States Coast Guard at the Port of Charleston, we were instructed that a level 2 bag was required. However no regulation other than "CFR 49 Sec. 176.76 (a)" was cited. We can find no correlation between that information and a requirement for a level 2 bag.

We understand that a level 2 bag is "recommended" for ocean travel, however, we have been successful using the level 1 dunnage air bags for some time now. We currently believe that the regulation is clear and that no "level requirement" exists. The space simply has to be filled to prevent shifting for movement normally incident to ocean transportation. Are our assumptions incorrect?

We appreciate any assistance your office can provide us in interpreting the regulations.

Yours truly,


Terry Campbell
Director of Transportation