



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 29 2002

Mr. Darrell Musick
President/CEO
Innergy Power Corporation
940 Disc Drive
Scotts Valley, CA 95066

Ref. No. 02-0184

Dear Mr. Musick:

This responds to your June 21, 2002 letter requesting an updated letter concerning the transportation of sealed lead acid rechargeable batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request that we provide you with an updated clarification on whether your sealed lead acid rechargeable batteries are nonspillable and excepted from the requirements of the HMR.

A nonspillable wet electric storage battery is excepted from requirements of the HMR if the batteries are capable of successfully passing the vibration and pressure differential tests in § 173.159(d)(3). In addition, the batteries must be protected against short circuits and securely packaged to withstand conditions normal to transportation, and, the package must be marked "Nonspillable" or "Nonspillable Battery" in accordance with § 173.159(d)(1)(2). Similar test criteria are contained in the International Civil Aviation Organization's (ICAO) Technical Instructions for international transportation by air. Special provision A67 of the ICAO Technical Instructions requires that a temperature of 55 degrees C. be used to determine whether the electrolyte will flow from a ruptured or cracked case. Batteries meeting the nonspillable criteria and special provision A67 are not regulated by air. The International Maritime Dangerous Goods (IMDG) Code, for international transportation by water, contains similar criteria for nonspillable batteries. However, batteries meeting the nonspillable criteria in which the electrolyte will not flow at 55 degrees C. are still subject to certain marking and stowage requirements under the IMDG Code.

You state that the manufacturing process and your product has not changed. Therefore, our April 1993 letter of clarification remains valid. Your batteries that meet the "nonspillable"



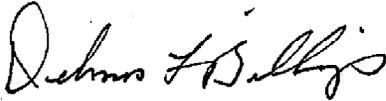
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173.159

provisions in § 173.159(d), when securely packaged and protected against short circuits, are not subject to the requirements of the HMR.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer F. Billings".

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards

Innergy Power Corporation

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§ 173.159
Batteries
02-0184

June 21, 2002

U.S. Department of Transportation
Research & Special Programs Administration
Director, Office of Hazardous Materials Standards

Dear Sir or Madam:

As you can see from the enclosed copy of a letter from your department, we have been deemed approved for transporting capabilities of our product as "non-spillable batteries". Also enclosed is a copy of paperwork registering our new name, Innergy Power Corporation in May of 2001. There has been no change in our manufacturing process or in our product.

I am requesting an updated letter from your department, addressing our President/CEO, Mr. Darrell Musick, using our Innergy Power name so that when we have the need to show transportation safety for our batteries, it will have the current information.

Thank you in advance for your cooperation. I am awaiting your new letter.

Sincerely,



Beth Stiller
Assistant to the President

Enclosures: 2

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