



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

OCT 31 2008

Mr. Colin P. Carroll  
Obadal, Filler, MacLeod & Klein, P.L.C.  
117 North Henry Street  
Alexandria, VA 22314-2903

Ref. No. 08-0236

Dear Mr. Greene:

This responds to your letter dated October 1, 2008 concerning the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to offerors of small lithium cells and batteries. Specifically, you seek clarification of the training requirements and gross weight limitations outlined in Part 172.

Lithium cells and batteries, including cells and batteries packed with or contained in equipment, that meet the requirements of Special Provision (SP) 188 are not subject to any other requirements of the HMR. Therefore, persons who ship small lithium cells and batteries under the provisions of SP 188 are not subject to the formal training requirements of Subpart H in Part 172 or the aircraft quantity limitations outlined in § 172.102, Special Provisions A100, A101, A103 and A104. A person who offers small lithium cells and batteries for transportation under SP 188 must ensure that the cells or batteries comply with each of the requirements of SP 188.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Susan Gorsky  
Acting Chief, Standards Development  
Office of Hazardous Materials Standards

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Leary  
§ 172.102 SP188  
§ 175.10  
Battery  
08-0236

October 1, 2008

VIA E-MAIL TO: [kevin.leary@dot.gov](mailto:kevin.leary@dot.gov)

Kevin Leary  
Transportation Regulations Specialist  
U.S. Department of Transportation  
Office of Hazardous Materials Standards  
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RE: Small, Secondary Lithium-ion Battery Special Provision 188

Dear Mr. Leary:

Thank you for taking the time to talk with me regarding the application of Title 49 CFR § 172.102(c)(1), Special Provision 188 (SP 188). As we discussed, I am writing to ask for an interpretation of SP 188 as it applies to the Special Provisions covering transport of lithium batteries by aircraft and the hazardous material training requirements of 49 CFR part 172, subpart H.

For small, secondary lithium-ion batteries and cells, SP 188 states that:

*Lithium cells or batteries, including cells or batteries packed with or contained in equipment, **are not subject to any other requirements of this subchapter if they meet all of the following (emphasis added):***

*b. ...For a lithium-ion cell, the equivalent lithium content is not more than 1.5 g;*

*c. ...For a lithium-ion battery, the aggregate equivalent lithium content is not more than 8 g;*

*d. Effective October 1, 2009, the cell or battery must be of a type proven to meet the requirements of each test in the UN Manual of Tests and Criteria (IBR; see §171.7 of this subchapter);*

*e. Cells or batteries are separated so as to prevent short circuits and are packed in a strong outer packaging or are contained in equipment....*

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*f. Effective October 1, 2008, except when contained in equipment, each package containing more than 24 lithium cells or 12 lithium batteries must be:*

*(1) Marked to indicate that it contains lithium batteries, and special procedures should be followed in the event that the package is damaged;*

*(2) Accompanied by a document indicating that the package contains lithium batteries and special procedures should be followed in the event that the package is damaged;*

*(3) Capable of withstanding a 1.2 meter drop test in any orientation without damage to cells or batteries contained in the package, without shifting of the contents that would allow short circuiting and without release of package contents; and*

*(4) Gross weight of the package may not exceed 30 kg (66 pounds). This requirement does not apply to lithium cells or batteries packed with equipment....*

*g. Electrical devices must conform to §173.21 of this subchapter; and*

*h. Lithium batteries or cells are not authorized aboard an aircraft in checked or carry-on luggage except as provided in §175.10.*

From the plain language of the regulation, it is my understanding that a shipment of small, secondary lithium-ion batteries meeting the requirements of SP 188 is otherwise excepted from **all** other provisions of Title 49 CFR, subchapter C, Hazardous Materials Regulations (HMRs).

Specifically, such shipments would be excluded from Special Provision A54 (noting the 35 kilogram limit on cargo aircraft, unless a higher amount is approved by the Administrator, which conflicts with the 30 kilogram gross weight limit of SP 188), as well as SPs A100, A103 and A104, which limit the quantity of secondary lithium batteries transported aboard passenger carrying aircraft to a gross weight of five (5) kilograms.

Likewise, any person that transports or causes the transport of SP 188 compliant small, secondary lithium-ion batteries in commerce, including performing pre-transportation functions and/or loading or unloading is also excepted from **all** other provisions of the HMRs. This includes the training requirements imposed on hazardous material employers under 49 CFR part 172, subpart H.

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Therefore, I am requesting an interpretation from your office confirming this reading on the scope of SP 188, i.e., that compliance with that SP is all that is necessary to comply fully with the HMRs.

Thank you for your assistance in this matter. If there are any questions please do not hesitate to contact me.

Kind Regards,

A handwritten signature in cursive script, appearing to read "Colin P. Carroll".

Colin P. Carroll