



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JAN 27 2009

Mr. Patrick Oppenheimer
Senior Manager, Safety Programs
Safety Health and Fire Prevention
FedEx Express
3670 Hacks Cross, Building G
Memphis, TN 38125

Ref. No. 09-0008

Dear Mr. Oppenheimer:

This responds to your January 13, 2009 email requesting clarification of the ICAO Technical Instructions (ICAO TI) with regard to their use as authorized by the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for clarification of the requirements referenced in variation US 2 of the ICAO TI relative to the prohibition of primary (non-rechargeable) lithium metal batteries transported aboard passenger aircraft.

Variation US 2 (in Table A-1 of Attachment 3) of the ICAO TI currently contains outdated references to provisions of the HMR. In a final rule under Dockets HM-224C and HM-224E (72 FR 44930; August 9, 2007), we combined Special Provision A101 for primary lithium metal batteries packed with equipment and Special Provision A102 for primary lithium metal batteries contained in equipment into Special Provision A101 and removed Special Provision A102. In addition, we moved exceptions for lithium batteries in § 173.185 paragraphs (b) and (c) to § 172.102(c) Special Provisions 188 and 189, respectively. We anticipate correcting these editorial inconsistencies in variation US 2 in the near future.

The intent of variation US 2 regarding the transport of primary (non-rechargeable) lithium metal batteries and cells to, from or within the United States remains the same. Primary (non-rechargeable) lithium metal batteries and cells (UN3090) are forbidden for transportation aboard passenger-carrying aircraft. Such batteries transported in accordance with Section I of Packing Instruction 968 must be labeled with the CARGO AIRCRAFT ONLY label. Such batteries transported in accordance with Section II of Packing Instruction 968 must be marked "PRIMARY LITHIUM BATTERIES — FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" or "LITHIUM METAL BATTERIES — FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT."

Primary (non-rechargeable) lithium metal batteries and cells contained in or packed with equipment (UN3091) are forbidden for transportation aboard passenger-carrying aircraft unless:

- (1) The equipment and the batteries and cells are transported in accordance with Packing Instruction 969 or 970, as appropriate;
- (2) The package contains no more than the number of lithium metal batteries or cells necessary to power the intended piece of equipment;
- (3) The lithium content of each cell, when fully charged, is not more than 5 grams;
- (4) The aggregate lithium content of the anode of each battery, when fully charged, is not more than 25 grams; and
- (5) The net weight of lithium batteries does not exceed 5 kg (11 pounds).

Primary (non-rechargeable) lithium metal batteries and cells contained in or packed with equipment (UN3091) and transported in accordance with Section I of Packaging Instruction 969 or 970 that do not conform to the above provisions are forbidden for transportation aboard passenger carrying aircraft and must be labeled with the CARGO AIRCRAFT ONLY label.

Primary (non-rechargeable) lithium metal batteries and cells contained in or packed with equipment (UN3091) and transported in accordance with Section II of Packaging Instruction 969 or 970 that do not conform to the above provisions are forbidden for transportation aboard passenger carrying aircraft and must be marked "PRIMARY LITHIUM BATTERIES — FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" or "LITHIUM METAL BATTERIES — FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT."

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts", written in a cursive style.

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

Drakeford, Carolyn <PHMSA>

From: Leary, Kevin <PHMSA>
Sent: Tuesday, January 13, 2009 3:02 PM
To: Drakeford, Carolyn <PHMSA>
Cc: Betts, Charles <PHMSA>
Subject: New Interp Letter Request

Der Kinderen
3172.102 SP 101
102

3173.185
Lithium Batteries
09-0008

----- Original Message -----

From: Pat Oppenheimer <pat.oppenheimer@fedex.com>
To: Pfund, Duane <PHMSA>
Sent: Tue Jan 13 11:01:30 2009
Subject: RE: USG 02

FedEx Express
Safety Health and Fire Prevention
3670 Hacks Cross
Building G
Memphis, TN 38125

Patrick Oppenheimer Sr Manager Safety Programs FedEx Express
901-434-9563
pat.oppenheimer@fedex.com

From: Duane.Pfund@dot.gov [mailto:Duane.Pfund@dot.gov]
Sent: Tuesday, January 13, 2009 9:52 AM
To: Pat Oppenheimer
Subject: RE: USG 02

Thank you. For my ease, can you send me your mailing address?

From: Pat Oppenheimer [mailto:pat.oppenheimer@fedex.com]
Sent: Tuesday, January 13, 2009 10:22 AM
To: Pfund, Duane <PHMSA>
Subject: USG 02

Duane, per our earlier discussions, many in the industry are not clear about USG 02. Of specific concern are the new references to UN 3091 when meeting the exceptions and whether they are forbidden on passenger aircraft when meeting the exceptions. Please provide a letter of interpretation on USG 02.

Thank you for your help in this matter.

Regards

Pat