



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JUL 15 2015

Mr. Mike Tobin
Manager Dangerous Goods
Alaska Airlines
P.O. Box 68900
Seattle, WA 98168

Ref. No.: 14-0157

Dear Mr. Tobin:

This responds to your August 1, 2014 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to non-spillable batteries in passenger baggage. We have paraphrased your questions and answered them below.

- Q1: On August 6, 2014, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a Final Rule titled "Transportation of Lithium Batteries" [79 FR 46011] under Docket HM-224F (PHMSA-2009-0095) outlining requirements for lithium batteries. You ask if PHMSA intended to remove § 175.10(a)(18)(iii) from the HMR as a part of this rulemaking.
- A1: PHMSA did not intend to remove this section from the HMR and has reinstated this section in the January 8, 2015 (HM-215M) Final Rule [80 FR 1075].
- Q2: You ask if a non-spillable battery for a mobility aid, complying with § 173.159a(d) is permitted in carry-on baggage in accordance with § 175.10(a)(18)(iii)?
- A2: Yes, non-spillable batteries for a mobility aid may be permitted in passenger carry-on baggage in accordance with § 175.10(a)(18)(iii). It should be noted that when mobility aids *equipped* with non-spillable batteries or dry sealed batteries are carried as checked baggage then § 175.10(a)(15) must be followed.

Please also note that § 175.10(a)(18)(iii) allows passengers to bring on board up to two individually protected non-spillable batteries that must not exceed a voltage greater than 12 volts and a watt-hour rating of not more than 100 Wh. The battery and equipment must conform to § 173.159a(d).

Q3: What kind of portable electronic device other than a mobility aid would use a 100 Wh non-spillable battery?

A3: Based on the continually evolving applications for batteries, PHMSA does not maintain a current list of portable electronic devices and their specifications.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "T. Glenn Foster". The signature is written in a cursive style with a prominent flourish at the end.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

*Andrews
175.10(a)(18)(iii)
Aircraft exemptions for batteries
14-0157*

From: Ciccarone, Michael CTR (PHMSA)
Sent: Friday, August 15, 2014 1:37 PM
To: Hazmat Interps
Subject: FW: Interpretation request
Attachments: Alaska Airlines interp request non-spillable mobility aid batteries in cabin.pdf

Shante and Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Mike Tobin [<mailto:Mike.Tobin@alaskaair.com>]
Sent: Monday, August 11, 2014 5:17 PM
To: PHMSA HM InfoCenter
Subject: Interpretation request

Hi, please see the attached request for interpretation.

Mike Tobin, CHMM
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tel 206-392-7854

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Seattle, WA 98168

2nd floor Gold Coast Center
20833 International Boulevard
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August 11, 2014

U.S. Department of Transportation
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE
Washington, D.C. 20590-0001

Interpretation Request

Two parts:

Part I

On January 3, 2013, PHMSA issued Final Rule in Docket No. PHMSA-2012-0027 (HM-215L) which added a new paragraph in 49CFR 175.10(a)(18)(iii) that allows non-spillable batteries in the aircraft cabin.

This harmonized with ICAO TI Table 8-1 number 26.

And HM-215L changed §173.159a(d) to allow in aircraft carry-on and checked baggage as permitted in §175.10.

However, the Final Rule in HM-224F published August 6, 2014 seems to delete (18)(iii) and there is nothing in the preamble why. This results in a lack of harmonization. The online version of eCFR currently does not have (18)(iii). HM-224F did not change §173.159a(d).

Was HM-224F deleting §175.10(a)(18)(iii) inadvertent?

Part II

(if deleting §175.10(a)(18)(iii) was inadvertent)

Alaska Airlines respectfully requests an updated interpretation regarding non-spillable batteries for mobility aids in the aircraft cabin as passenger carry-on baggage.

Q1) Is a non-spillable battery for a mobility aid, complying with 49CFR 173.159a(d), now permitted in carry-on luggage in accordance with §175.10(a)(18)(iii)?

In Interpretation 11-0113, dated May 15, 2012, PHMSA wrote:

Q3. If a non-spillable battery meets the conditions of §173.159a(d), is it permitted in the cabin of an aircraft as carry-on baggage (i.e. not installed in equipment)?

A3. No, as indicated in A1 above, a hazardous material carried by a passenger must meet an exception in §175.10. Section 175.10 does not provide an exception for carriage of a non-spillable battery as carry-on baggage and as such does not permit a passenger to carry a non-spillable battery in the cabin of an aircraft, regardless of whether it is transported alone or attached to a device.

But on January 3, 2013, PHMSA issued Final Rule in Docket No. PHMSA-2012-0027 (HM-215L) which added a new paragraph in §175.10(a)(18)(iii) that does indeed allow non-spillable batteries in the cabin. And it changed §173.159a(d) to allow in baggage if permitted in §175.10.

Therefore, the rationale as expressed in Interp 11-0113 was superseded by HM-215L.

§175.10(a)(15) only pertains to non-spillable battery mobility aids "when carried as checked baggage" so it appears for carry-on baggage, §175.10(a)(18) must be used.

A spare 12 V 7.2 Ah (86.4 Wh) non-spillable battery is permitted under §175.10(a)(18) for portable electronic devices.

14 CFR Part 382, Nondiscrimination on the basis of disability in travel, §382.121(a)(3) specifically requires non-spillable batteries be allowed in the cabin, provided hazmat rules are complied with.

In the event PHMSA answers "no" to question 1, we have 2 follow up questions:

Q2) If PHMSA states that a non-spillable battery is allowed only for portable electronic devices, but not for mobility aids, can you help us explain why they have a disparate degree of risk? What is the safety risk difference between a 86.4 Wh non-spillable battery for a mobility aid versus a 86.4 Wh non-spillable battery for another form of portable electronic device?

Q3) What kind of portable electronic device other than a mobility aid would use a 100 Wh non-spillable battery?

Thank you in advance for your reply. If you have any questions, please don't hesitate to ask.



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Current regulations:

January 3, 2013, Docket No. PHMSA-2012-0027 (HM-215L) Final Rule, page 78 FR 1093:
(note the (iii) is currently showing removed in eCFR due to HM-224F.)

Sec. 175.10 Exceptions for passengers, crewmembers, and air operators.

(18) Except as provided in Sec. 173.21 of this subchapter, portable electronic devices (for example, watches, calculating machines, cameras, cellular phones, lap-top and notebook computers, camcorders, etc.) containing cells or batteries (including lithium cells or batteries) and spare batteries and cells for these devices, when carried by passengers or crew members for personal use. Each spare battery must be individually protected so as to prevent short circuits (by placement in original retail packaging or by otherwise insulating terminals, e.g., by taping over exposed terminals or placing each battery in a separate plastic bag or protective pouch) and carried in carry-on baggage only. In addition, each installed or spare battery must comply with the following: * * *

(iii) For a non-spillable battery, the battery and equipment must conform to Sec.173.159(d). Each battery must not exceed a voltage greater than 12 volts and a watt-hour rating of not more than 100 Wh. No more than two individually protected spare batteries may be carried. Such equipment and spare batteries must be carried in checked or carry- on baggage.

This same rulemaking clarified 173.159a(d) by adding new:

(3) For transport by aircraft, must be transported as cargo and may not be carried onboard an aircraft by passengers or crewmembers in carry-on baggage, checked baggage, or on their person unless specifically excepted by Sec. 175.10.

14 CFR 382.121 What mobility aids and other assistive devices may passengers with a disability bring into the aircraft cabin?

(a) As a carrier, you must permit passengers with a disability to bring the following kinds of items into the aircraft cabin, provided that they can be stowed in designated priority storage areas or in overhead compartments or under seats, consistent with FAA, PHMSA, TSA, or applicable foreign government requirements concerning security, safety, and hazardous materials with respect to the stowage of carry-on items.

- (1) Manual wheelchairs, including folding or collapsible wheelchairs;
- (2) Other mobility aids, such as canes (including those used by persons with impaired vision), crutches, and walkers; and
- (3) Other assistive devices for stowage or use within the cabin (e.g., prescription medications and any medical devices needed to administer them such as syringes or auto-injectors, vision-enhancing devices, and POCs, ventilators and respirators that use non-spillable batteries, as long as they comply with applicable safety, security and hazardous materials rules).