



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

MAY 09 2012

Mr. George Kerchner
Senior Regulatory Analyst
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

Ref. No. 12-0031

Dear Mr. Kerchner:

This responds to your January 24, 2012 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) applicable to the transport of lithium batteries. Your questions are paraphrased and answered below:

Q1: May a lithium battery be placed directly into a UN 4G fiberboard box without any inner packaging in accordance with the requirements of § 173.185(a)(4)?

A1: No. As provided by § 173.185(a)(4), each lithium battery must be packed in an inner packaging in such a manner as to prevent short circuits, including movement which could lead to short circuits. The inner packaging must be packed within a suitable outer packaging, such as a UN 4G fiberboard box, that conforms to the requirements of Part 178 subparts L and M at the Packing Group II performance level.

Q2: May a lithium battery be placed directly into a UN 4G fiberboard box without any inner packaging in accordance with the requirements of Packing Instruction 965, Section I of the ICAO Technical Instructions?

A2: No. Similar to the requirements of § 173.185(a)(4), Packing Instruction 965, Section I of the ICAO Technical Instructions requires each lithium battery to be placed in inner packagings

that completely enclose the battery, then placed in an outer package. The completed package must meet the performance requirements at the Packing Group II performance level.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Supko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ben Supko
Acting Chief, Standards Development
Office of Hazardous Materials Standards

Drakeford, Carolyn (PHMSA)

Leary
§ 173.185(a)(4)
Lithium Batteries

From: INFOCNTR (PHMSA)
Sent: Wednesday, January 25, 2012 12:52 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW:Interp Letters Inner Packaging Requirements for Lithium Batteries

12-0031

From: Kerchner, George [mailto:GKerchner@wileyrein.com]
Sent: Tuesday, January 24, 2012 12:05 PM
To: INFOCNTR (PHMSA)
Cc: Leary, Kevin (PHMSA)
Subject: Inner Packaging Requirements for Lithium Batteries

Hi Carolyn,

We received the following request for a letter of interpretation.

Thanks,
Victoria

Victoria Lehman
Hazmat Information Center (HMIC)
<http://phmsa.dot.gov/hazmat/info-center>
(202) 366-1035

I am writing for a clarification on whether a lithium battery, as an article, is required to be placed inside an inner packaging to comply with 49 CFR 173.185(a)(4) and ICAO Technical Instruction Packing Instruction 965, Section I.

It is generally recognized that batteries are articles and as such may not require a separate inner packaging to comply with the combination packaging requirements in 49 CFR 173.185(a)(4). However, the way this provision and PI 965, Section I are written, it appears that an inner packaging may in fact be required for lithium batteries. Therefore, I would appreciate answers to the following questions:

1. May a lithium battery be placed directly in a 4G fiberboard box without any inner packaging and still be compliant with the requirements 49 CFR 173.185(a)(4)?
2. May a lithium battery be placed directly in a 4G fiberboard box without any inner packaging and still be compliant with the requirements found in PI 965, Section I of the ICAO technical Instructions (2011-2012 Edition)?

Thank you.

George A. Kerchner
Senior Regulatory Analyst

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