



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

APR 26 2005

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

Mr. Marvin Sudduth
FedEx Express Corporate Safety Department
3670 Hacks Cross Rd.
Bldg G.2nd F1
Memphis, TN 38125

Ref. No. 05-0044

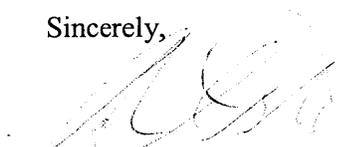
Dear Mr. Sudduth:

This is in response to your letter concerning the use of the Cargo Aircraft Only label for the transportation of primary lithium batteries and cells aboard passenger aircraft in accordance with the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) adopted under Docket HM-224E (December 15, 2004). Specifically, you asked whether it is permissible to place the "Cargo Aircraft Only" label on packages of primary lithium batteries and cells that display the "PRIMARY LITHIUM BATTERIES-FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" markings.

The answer is yes. Section 173.185 of the HMR as amended by the HM-224E interim final rule, states that the outside of each package that contains a primary (non-rechargeable) lithium battery or cell that is forbidden for transport aboard passenger carrying aircraft must be marked "PRIMARY LITHIUM BATTERIES-FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT". In addition § 172.402 of the HMR requires each person who offers for transportation or transports by aircraft a package containing a hazardous material that is authorized on cargo aircraft only to label the package with a CARGO AIRCRAFT ONLY label. Therefore, the use of the CARGO AIRCRAFT ONLY label may be used in conjunction with the "PRIMARY LITHIUM BATTERIES-FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" markings. For non-excepted Class 9 primary lithium batteries offered for transport by air the words "Cargo Aircraft Only" must be entered after the basic description on shipping papers and the package must bear a Class 9 and a Cargo Aircraft Only label, and the package must be otherwise marked as required by the HMR.

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

Sincerely,


John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



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172.400



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@ 173.185
\$ 172.400
Lithium Batteries
05-0044

February 28, 2005

**Mr. Edward Mazullo
U.S. Department of Transportation
Office of Hazardous Materials Standards
DHM-10
400 7th St., S.W.
Washington, D.C. 20590**

**Re; Request for Letter of Interpretation on the Use of the Cargo Aircraft Only
Label on Primary Lithium Battery Shipments**

Dear Mr. Mazullo,

**FedEx Express requests a formal Letter of Interpretation regarding the use of the
Cargo Aircraft Only (Danger) label on shipments of primary lithium batteries and
cells that are forbidden aboard passenger aircraft.**

**The question basically centers around whether there is language in the recently
enacted HM-224 or the HMRs in general that would prohibit the use of the Cargo
Aircraft Only (Danger) label on lithium battery or cell shipments that exhibit
the following marking?**

**“PRIMARY LITHIUM BATTERIES-FORBIDDEN FOR TRANSPORT ABOARD
PASSENGER AIRCRAFT”**

**The impetus behind this question is that FedEx Express has restricted the
acceptance of primary non rechargeable lithium batteries that were offered as non
regulated under the provisions of the ICAO Technical Instructions Special
Provision A-45 until we could determine acceptance impact and initiate a workable
recognition and packaging inspection verification process for these shipments.**

**Part of the FedEx Express process will involve asking shippers of these items to
apply the ‘DANGER’ label to these shipments.**

Letter of Interpretation Request-Continued

In previous conversations with the Hazardous Materials Information Center (HMIC) it was determined that there was no language in the Final Interim Rule Of HM-224 nor in 172.400 of 49CFR that suggested that the use of the 'Danger' label with the aforementioned battery shipments would be inconsistent with the intent of the regulations.

FedEx Express respectfully asks for a formal written clarification of this premise to be able to continue our qualification process to be able to accept these types of shipments.

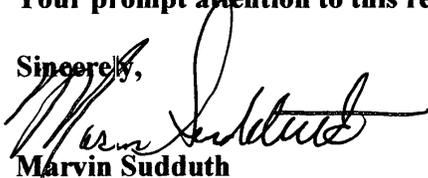
The reply should be forwarded as follows:

**Marvin Sudduth
FedEx Express Corporate Safety Department
3670 Hacks Cross Rd.
Bldg G, 2nd Fl
Memphis, Tn 38125**

For expediency's sake I have included a prepaid FedEx Express Overnight Letter and airbill for your use in returning the documentation to me.

Your prompt attention to this request is greatly appreciated.

Sincerely,



**Marvin Sudduth
Manager
Dangerous Goods Administration
FedEx Express Corporate Safety Department
901-434-9566**