



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

AUG 14 2008

Mr. Randy Tanner
Traffic Manager
Southwest Electronic Energy Corp.
12701 Royal Drive
P.O. Box 848
Stafford, Texas 77497-0848

Ref. No. 08-0112

Dear Mr. Tanner:

This responds to your April 21, 2008 letter requesting clarification of requirements applicable to shipping lithium battery packs by aircraft under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180.) Specifically, you ask if you may ship these battery packs in UN specification packaging in accordance with the HMR and International Air Transport Association (IATA) requirements. The IATA requirements are industry guidelines and are not recognized by the HMR. Therefore, our response is framed in terms of the requirements of the HMR and the International Civil Aviation Organization (ICAO) Technical Instructions (TI).

In your letter, you state that your overseas customers need to send lithium battery packs (UN 3090, Lithium batteries, 9, PG II) back to your facility in the United States for recycling or additional evaluation. Your customers request shipment by air. You believe that you may ship these lithium batteries if they are packaged in UN specification packaging for Class 9 materials. You ask if there any other regulatory issues that need to be addressed.

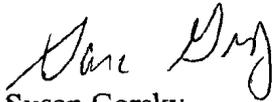
In accordance with the provisions of the HMR, you may ship these lithium battery packs as Class 9 material, provided they meet the requirements of §173.185(a) including UN specification packagings, and the applicable Special Provisions in §172.102 in the HMR.

However, you should also be aware that the ICAO published an addendum/corrigendum applicable to the 2007-2008 ICAO Technical Instructions effective August 1, 2007. The addendum added a new Special Provision 154 to the entry for Lithium Batteries, UN 3090; Lithium Batteries in equipment, UN3091; and Lithium Batteries packed with equipment, UN3091. Special Provision 154 states, Lithium batteries, identified by the manufacturer as

being defective for safety reasons, or that have been damaged, that have the potential of producing a dangerous evolution of heat, fire or short circuit are forbidden for transport (e.g. those being returned to the manufacturer for safety reasons). It would be incumbent upon the offeror of the material to ensure compliance with this special provision.

I hope this answers your inquiry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Gorsky".

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

Booth
§173.185
Lithium Batteries
08-0112



April 21, 2008

Dear Mr. Mazullo,

Our overseas customers need to send lithium battery packs (UN3090, Lithium Batteries, 9, PG II) back to our facility for two reasons:

- (a) for purposes of recycling
- (b) for evaluation when the customer thinks the battery pack is nonconforming (NCM)

Our customers request all transportation be carried out via air, not ocean. Using 49CFR and IATA regulations we believe we can correctly ship these lithium batteries if they are packaged in "UN" specified packaging following class 9 regulations (49CFR & IATA).

If our customers inform us that there are no safety issues with the batteries, are there any other regulatory issues to be addressed? On the packs coming back for evaluation, neither we nor our customer will know what, if anything is wrong with the battery packs until they are evaluated at our facility. Are there any regulatory constraints that would prevent us from shipping these packs for evaluation back to SWE via air?

Thank you for your assistance in clarifying these questions. If you have any questions or need clarifications, please do not hesitate to contact me at 281-240-4000.

Regards,

A handwritten signature in black ink, appearing to read "Randy Tanner", written over a faint circular stamp.

Randy Tanner
Traffic Manager
Southwest Electronic Energy Corp

