



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

JAN 29 2015

Mr. Richard J. Lloyd
31 Bastian Lane
Allentown, PA 18104

Reference No. 14-0158

Dear Mr. Lloyd:

This is in response to your recent e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for packaging "UN 3091 Lithium metal batteries contained in equipment or Lithium metal batteries packed with equipment (including lithium alloy batteries), 9 (miscellaneous), Packing Group (PG) II." Specifically, you ask if smaller lithium cells and batteries packed with or contained in equipment are placed in packagings that conform with the exceptions prescribed in § 173.185(c) must these packagings be United Nations (UN) performance packagings that meet the PG II performance level.

Further, you note that requirements in § 173.185(c) for lithium batteries amended in the Docket No. PHMSA-2009-0095 (HM-224F; 79 FR 46012) final rule are not completely harmonious with those prescribed for UN 3091 lithium batteries in the UN Recommendations for the Transport of Dangerous Goods (Recommendations) in that they do not expressly except these batteries from the performance packaging requirements that apply to lithium cells and batteries packed with equipment prescribed in § 173.185(b)(3)(iii).

The answer is no. Provided the completed package of lithium cells and batteries, or lithium cells or batteries packed with or contained in equipment, meets the conditions prescribed in § 173.185(c), it is not subject to the PG II, UN performance packaging requirements specified in § 173.185(b)(3)(iii). However, inner packagings that contain lithium cells and batteries packed with equipment in conformance with § 173.185(c) must comply with the inner packaging requirements prescribed in § 173.185(b)(3)(iii)(A) or (b)(3)(iii)(B). The Pipeline and Hazardous Materials Safety Administration will clarify this requirement in a future rulemaking.

I hope this satisfies your request.

Sincerely,

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

Goodall, Shante CTR (PHMSA)

Edmonson
173.185
Lithium Batteries
14-0158

From: Ciccarone, Michael CTR (PHMSA)
Sent: Friday, August 15, 2014 2:00 PM
To: Hazmat Interps
Subject: FW: HM-224F

Shante and Alice,

Please submit this for a formal letter of interpretation. Mr. Lloyd spoke to Mike Pagel in the HMIC.

Thanks,

Mike

From: Richard Lloyd [<mailto:dickchar@rcn.com>]
Sent: Thursday, August 14, 2014 3:44 PM
To: INFOCNTR (PHMSA)
Subject: HM-224F

Dear Sir:

I will appreciate an interpretation letter clarifying the packaging requirements specified in the August 6, 2014 HM-224F Final Rule as it pertains to shipments of lithium metal batteries packed with equipment (UN 3091) and shipped as "exceptions" to the regulations. The Final rule seems to require UN performance packaging for the exempt shipments of lithium metal batteries packed with equipment (UN 3091), whereas the intent of the Final Rule was to harmonize the 49 CFR Hazardous Materials Regulations with the ICAO Technical Instructions and the IMDG Code and permit the lithium metal batteries packed with equipment (UN 3091), when shipped as exceptions, to be packaged in a strong outer package.

49 CFR 173.185 paragraph (C), Exceptions for smaller cells and batteries, indicates that a package containing lithium batteries packed with equipment, meeting the conditions of this paragraph, is excepted from the UN performance packaging requirements in paragraph (b) (3) (ii). There is no mention of an exception from complying with paragraph (b) (3) (iii).

Paragraph (b) (3) (iii) states:

"When packed with equipment lithium cells or batteries must:

(A) Be placed in inner packagings that completely enclose the cell or battery, then placed in an outer packaging. The completed package for the cells or batteries must meet the Packing Group II performance requirements as specified in paragraph (b) (3) (ii) of this section; or

(B) Be placed in inner packagings that completely enclose the cell or battery, then placed with equipment in a package that meets the Packing Group II performance requirements as specified in paragraph (b) (3) (ii) of this section."

I believe a UN performance rated package would be required to meet the Packing Group II performance requirement in paragraph (b) (3) (iii). This would suggest that the type of outer packaging specified in (b) (3) (ii) should be used for the excepted shipments of lithium metal batteries packed with equipment (UN 3091).

Thank you for your help with understanding the necessary compliance for these shipments.

Richard J. Lloyd
31 Bastian Lane
Allentown, PA 18104