



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

SEP 11 2018

1200 New Jersey Avenue, SE
Washington, DC 20590

Eva Glimsche
Lithium Batterie Service GbR
Sperberstr 50e
Munich, Germany 81827

Reference No. 18-0073

Dear Ms. Glimsche:

This letter is in response to your May 12, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to lithium cells and batteries. Specifically, you seek guidance on whether a shipper must confirm that lithium cells and batteries were manufactured under a quality management program for domestic and international transport.

We have paraphrased and answered your questions as follows:

- Q1. You ask if lithium cells and batteries are forbidden for international transportation if a shipper cannot confirm that they were manufactured in accordance with the quality management program required by the United Nations (UN) Model Regulations, 2.9.4(e) and the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air, Part 2 2;9.3.1(e).
- A1. The answer is no. For the purposes of the HMR, the shipper is not required to confirm that lithium cells and batteries were manufactured under a quality management program in accordance with the UN Model Regulations.
- Q2. You ask if the HMR reference the UN Model Regulations or the ICAO Technical Instructions requirements for lithium cells and batteries to be manufactured under a quality management program.
- A2. The answer is no. The HMR do not require lithium cells or batteries to be manufactured under a quality management program. As required by § 173.185(a), each lithium cell or battery must be of the type proven to meet the criteria in Part III, Sub-section 38.3 of the UN Manual of Tests and Criteria.
- Q3. You ask if an email confirmation verifying compliance with the quality management program would be sufficient for a shipper, even if the person who provided the email confirmation did not include the email signature stating the person's full name and position.

- A3. See A1.
- Q4. You ask if confirmation that a company manufactures lithium cells and batteries in accordance with ISO 9001 would be sufficient to fulfill the quality management program requirements found in the UN Model Regulations and the ICAO Technical Instructions.
- A4. Confirmation of compliance with a quality management program, such as ISO 9001, may not be sufficient to demonstrate compliance with the quality management program requirements found in the UN Model Regulations and the ICAO Technical Instructions. The quality management program should be specific to the manufacturing operations of lithium cells and batteries and include each of the elements listed in 2.9.4(e) of the UN Model Regulations and Part 2 2;9.3.1(e) of the ICAO Technical Instructions. As previously stated, the shipper is under no obligation to confirm that lithium cells and batteries were manufactured under a quality management program for purposes of the HMR.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

~~John Baker~~
Batteries
18-0073

January, Ikeya CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Wednesday, May 16, 2018 4:10 PM
To: Hazmat Interps
Subject: FW: Written Guidance needed - Transport Prohibition of lithium batteries without confirmation on QM Program on hand?

Hi Ikeya,

Below is a request for a formal letter of interpretation. Please let me know if you have any questions.

Thanks,
Jodi

From: Eva Glimsche [mailto:eva.glimsche@lithium-batterie-service.de]
Sent: Tuesday, May 15, 2018 1:22 AM
To: Cardez, Eugenio CTR (PHMSA) <eugenio.cardez.ctr@dot.gov>
Subject: Re: Written Guidance needed - Transport Prohibition of lithium batteries without confirmation on QM Program on hand?

Dear Eugenio,

thanks for your email.

Yet unfortunately the text in 173.185 does not answer our questions.

So we do need written guidance from PHMSA to include this information into our documentation for our customers.

Since infos given via phone or email unfortunately are not legally binding. That's why we do request to get written guidance from PHMSA.

Thanks and best regards

Eva

Eva Glimsche
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www.lithium-battery-service.com

Am 14.05.2018 um 17:17 schrieb Cardez, Eugenio CTR (PHMSA) <eugenio.cardez.ctr@dot.gov>:

Dear Eva,

We have received your inquiry about the hazardous materials regulations (HMR) (49 CFR Parts 171-180).

The HMR prescribes the requirements of the Department of Transportation governing the offering and transportation of hazardous materials in interstate, intrastate, and foreign commerce by rail car, aircraft, motor vehicle, and vessel. While we cannot provide an exhaustive list of each applicable requirement, we suggest you review section 173.185 for additional information on lithium batteries. The hazardous materials regulations are available at the following URL:

<https://www.phmsa.dot.gov/phmsa-regulations>

If you require additional assistance, you may contact the Hazardous Materials Information Center, which is staffed with regulatory specialists who can quickly answer your questions by phone, Monday through Friday, 9 AM - 5 PM EST at +1(202) 366-4488.

Sincerely,

Eugenio, Hazardous Materials Specialist

An e-mail response from this office is considered informal guidance. Formal guidance may be requested in accordance with 49 CFR 105.20. <http://phmsa.dot.gov/hazmat/regs/interps>

From: Eva Glimsche [<mailto:eva.glimsche@lithium-batterie-service.de>]

Sent: Saturday, May 12, 2018 2:05 AM

To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>

Subject: Re: Written Guidance needed - Transport Prohibition of lithium batteries without confirmation on QM Program on hand?

Dear PHMSA Team,

I pressed the Send-Button too early.

Let me add the following to our request:

We request written guidance on the following questions:

1. If a shipper (who is not the manufacturer) cannot get a confirmation that the lithium cell or the lithium battery they want to prepare for transport is manufactured according to the QM Program as requested in the UN Model Regulations Section 2.9.4 e) and in the ICAO TI: Part 2, 2;9.3.1 e), does that conclude that this lithium cell or lithium battery is forbidden for international transport because it does not fulfill the mentioned regulations?

2.a. Is there a reference to this UN recommendation and ICAO requirement for lithium cells and lithium batteries on the Quality Management Program anywhere in the 49 CFR?

2.b. And if so, would this missing confirmation conclude a transport prohibition within the USA?

3. Would an email confirmation for the QM Program be sufficient, even if the sender did not include the email signature stating his full name and position? Like e.g.

I can confirm that the lithium ion batteries powering the Kindle devices have passed the UN38.3 test and are manufactured under a QM program.

4. Would a confirmation of the manufacture according to ISO 9001 on the website of the company be sufficient to fulfill the recommendations in UN Model Regulations Section 2.9.4 e) and in the requirements in ICAO TI: Part 2, 2;9.3.1 e)? Like e.g. by Samsung SDI under this link:

<http://www.samsungsdi.com/about-sdi/history/history.html>

Even if nowhere it states that the ISO 9001 is still valid.

Thanks for looking into this.

Best regards

Eva

Eva Glimsche
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www.lithium-batterie-service.de

Am 12.05.2018 um 07:06 schrieb Eva Glimsche <eva.glimsche@lithium-batterie-service.de>:

Dear PHMSA Team,

we request written guidance on the following questions:

1. If a shipper (who is not the manufacturer) cannot get a confirmation that the lithium cell or the lithium battery they want to prepare for transport is manufactured according to the QM Program as requested in the UN Model Regulations Section 2.9.4 e) and in the ICAO TI: Part 2, 2;9.3.1 e), does that conclude that this lithium cell or lithium battery is forbidden for international transport because it does not fulfill the mentioned regulations?

2.a. Is there a reference to this UN recommendation and ICAO requirement for lithium cells and lithium batteries on the Quality Management Program anywhere in the 49 CFR?

2.b. And if so, would this missing confirmation conclude a transport prohibition within the USA?

Looking forward to hearing from you!

Best regards

Eva

Eva Glimsche
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