



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

OCT 2 2006

Mr. George A. Kerchner
Wiley Rein and Feilding LLP
1776 K Street, NW
Washington, DC 20006

Ref. No.: 06-0216

Dear Mr. Kerchner:

This is in response to your September 25, 2006 letter regarding clarification of exceptions for lithium batteries and cells under the International Maritime Dangerous Goods Code (IMDG Code). Specifically you ask if a shipment of lithium-ion batteries meeting all the requirements of Special Provision 188 of the IMDG Code is subject to marking, labeling, placarding, and shipping papers of the IMDG Code as a Class 9.

The answer is no. In accordance with Special Provision 188 of the IMDG Code lithium-ion cells and batteries are not subject to other provision of the IMDG Code if they meet all of the following requirements:

- (1) Each lithium-ion cell may contain not more than 1.5 g of equivalent lithium content;
- (2) Each lithium-ion battery may contain an aggregate quantity of not more than 8.0 grams of equivalent lithium content;
- (3) Each cell or battery is of the type proved to meet the requirements of each test in the UN Manual of Tests and Criteria, Part III, sub-section 38.3;
- (4) Cells and batteries must be packed in such a way so as to prevent short circuits and must be packed in strong packagings, except when installed in equipment; and
- (5) Except when installed in equipment, each package containing more than 24 lithium cells or 12 lithium batteries must meet the following additional requirements:
 - (a) Each package must be marked indicating that it contains lithium batteries and that special procedures must be followed in the event that the package is damaged;
 - (b) Each shipment must be accompanied with a document indicating that packages contain lithium batteries and that special procedures must be followed in the event a package is damaged;



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(c) Each package is capable of withstanding a 1.2 m drop test in any orientation without damage to cells or batteries contained therein, without shifting of the contents so as to allow battery to (or cell to cell) contact and without release of the contents; and

(d) Except for lithium batteries packed with equipment, packages may not exceed 30 kg gross mass.

As provided by § 171.12, a hazardous material that is packaged, marked, classed, labeled, placarded, described, stowed and segregated, and certified in accordance with the IMDG Code may be offered and accepted for transportation and transported within the United States subject to certain conditions and limitations.

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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September 25, 2006

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Mr. John Gale
Office of Hazardous Materials
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC

Re: Special Provision 188 of the IMDG Code

Dear Mr. Gale:

I am writing to request an interpretation on the applicability of Special Provision 188 of the International Maritime Dangerous Goods (IMDG) Code as it pertains to shipments of lithium ion batteries. I am requesting this interpretation because of a disagreement between our client and a vessel operator over how Special Provision 188 applies to such shipments.

It is our understanding that shipments of lithium ion batteries that meet all of the requirements of Special Provision 188 of the IMDG Code do not have to be offered to a vessel operator as Class 9 dangerous goods. However, the vessel operator insists that regardless of whether a shipment of lithium ion batteries meets the requirements of Special Provision 188 that shipment must still be offered as Class 9 dangerous goods.

Therefore, my question is as follows:

If a shipment of lithium ion batteries meets all of the requirements of Special Provision 188 in the IMDG Code, must that shipment be marked, labeled, placarded, and offered as Class 9 dangerous goods and accompanied by a dangerous goods shipper's declaration?

Thank you for your assistance.

Sincerely,

George A. Kerchner

George A. Kerchner

cc: Greg Schulz