



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

MAY 27 2014

Mr. Andrew Romach
Regulatory Compliance Manager
URS Corporation
1600 Perimeter Park Dr.
Morrisville, NC 27560

Ref. No.: 14-0028

Dear Mr. Romach:

This is in response to your letter dated February 7, 2014, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI) relating to competent authority approvals that are necessary for the transportation of lithium ion batteries. Specifically, you ask if a U.S. competent authority approval is required for a lithium battery weighing greater than 35 kg that is prepared in accordance with the ICAO TI and shipped into the United States from another country. Stated another way, is a competent authority approval issued from the country of origin of the lithium battery shipment sufficient to comply with the HMR?

A U.S. competent authority approval is necessary for shipments of lithium batteries transported within the United States by aircraft, when offered in accordance with special provision A99 of the ICAO TI. Section 171.24(b)(2) requires any person who offers for transportation or transports a hazardous material in accordance with the ICAO TI to also comply with the quantity limits prescribed in the ICAO TI for transportation by passenger-carrying or cargo aircraft, as applicable. The ICAO TI, in special provision A99, only requires approval from the state of origin for a lithium battery that is of a type proven to meet the requirements of the tests in the UN Manual of Tests and Criteria, but exceeds 35 kg in weight. However, the additional requirement in § 171.24(b)(2) necessitates the need for an approval from the U.S. competent authority.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division



February 7, 2014

Mr. Charles Betts, Division Director
Standards and Rulemaking (PHH-10)
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Ave., SE
Washington, DC 20590

Webb
§ 172.102 SP A54
§ 171.22
§ 172.101
Ba Heries
14-0028

Dear Mr. Betts:

I am writing to you to request a Department of Transportation (DOT) interpretation concerning the applicability of 49 CFR 172.102, Special Provision A54 to the international air shipment of a lithium ion battery with maximum gross weight greater than 35 kilograms being shipped into the United States and prepared under International Civil Aviation Organization (ICAO) requirements, as authorized under 49 CFR 171.22.

Special Provision A99 in Chapter 3, Table 3-2 of the ICAO "Technical Instructions for the Safe Transport of Dangerous Goods by Air" requires:

*Irrespective of the quantity limits for cargo aircraft specified in Column 13 of Table 3-1, and in Section I of Packing Instructions 965, 966, 967, 968, 969 and 970, a lithium battery or battery assembly (i.e. UN 3090 or UN 3480), including when packed with equipment or contained in equipment (UN 3091 or UN 3481) that meets the other requirements of Section I of the applicable packing instruction, may have a mass exceeding 35 kg, if approved by the appropriate authority of **the State of Origin**. A copy of the document of approval must accompany the consignment. [Bolded text added for emphasis.]*

49 CFR 172.102, Special Provision A54 requires:

*Lithium batteries or lithium batteries contained or packed with equipment that exceed the maximum gross weight allowed by Column (9B) of the 172.101 Table may only be transported on cargo aircraft if approved by **the Associate Administrator**. [Bolded text added for emphasis.]*



DOT interpretation letter request
February 7, 2014
Page 2 of 2

49 CFR 171.22(b) requires:

(b) Limitations on the use of international standards and regulations. A hazardous material that is offered for transportation or is transported in accordance with the international standards and regulations authorized in paragraph (a) of this section-

(1) Is subject to the requirements of the applicable international standard or regulation and must be offered for transportation or transported in conformance with the applicable standard or regulation; and

(2) Must conform to all applicable requirements of this subpart.

Question: As the requirement to meet 49 CFR 172.102, Special Provision A54 is not listed in 49 CFR 171 Subpart C, would the air shipment of a lithium battery with maximum gross weight greater than 35 kilograms prepared under ICAO and shipped into the United States from another country be required to obtain a Competent Authority Approval from the U.S. DOT Associate Administrator? Or, as required to meet ICAO, would a Competent Authority Approval issued from the State of Origin of the lithium battery shipment be sufficient to comply with the Hazardous Material Regulations (HMR)?

I would appreciate your assistance with this question.

Sincerely,

Andrew N. Romach
Regulatory Compliance Manager
URS Corporation