



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

NOV 13 2014

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

Reference No. 14-0089

Dear Mr. Romach:

This is in response to your letter requesting clarification on how to transport “UN 2990, Life-saving appliances, self-inflating, 9” and “UN 3072, Life-saving appliances, not self-inflating, 9” that each contain a lithium battery, internationally by aircraft, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if life-saving appliances that contain a lithium battery are excepted from complying with Special Provisions 188, 189, A101, A103, and A104 prescribed in 49 CFR 172.102, and § 173.185 when prepared for transportation in conformance with International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions).

On August 6, 2014, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a final rule, in consultation with the Federal Aviation Administration, under Docket No. PHMSA-2009-0095 (HM-224F; 79 FR 46012, 8/6/14), that modified the HMR for lithium batteries and cells. Under this final rule, § 172.102 Special Provisions 188 and 189 were revised and moved to § 173.185(c). Special Provision A101 was revised to make it consistent with comparable requirements for lithium metal batteries packed with or contained in equipment that are prescribed in the ICAO Technical Instructions. The final rule also adopted separate Hazardous Materials Table (HMT; § 172.101) entries for lithium metal batteries and lithium ion batteries, making Special Provisions A103 and A104 no longer necessary; they were removed. In addition, the final rule consolidated the United Nations (UN) design testing, packaging, and other transport condition requirements for lithium batteries into § 173.185 and reorganized that section.

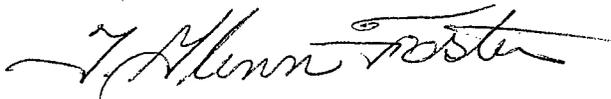
If the life-saving appliances you described comply with the size, packaging, hazard communication, air transportation, and marking exceptions prescribed for smaller lithium cells and batteries in § 173.185(c), they are excepted from the requirements in 49 CFR Part 172, Subparts C (Shipping Papers), D (Marking), E (Labeling), F (Placarding), G (Emergency Response Information), and H (Training), and the UN performance packaging requirements prescribed in § 173.185(b)(3)(ii) and (b)(4). Please note that you may also ship them in

conformance with the requirements prescribed in § 173.185 for “UN 3481, Lithium ion batteries contained in equipment including lithium polymer batteries, 9, II” or “UN 3091, Lithium batteries contained in equipment including lithium alloy batteries, 9, PG II,” if applicable.

Also, please note that the HMR require that packages of hazardous materials prepared for transportation in conformance with international requirements, such as the ICAO Technical Instructions, must comply with 49 CFR Part 171, Subpart C. This subpart further requires that any hazardous materials packages offered or intended for transportation by aircraft in conformance with the ICAO Technical Instructions must also comply with 49 CFR Part 175 (Carriage by Aircraft; see § 171.24(b)(1)); however, the HMR do not require packages prepared in this manner to comply with § 173.185.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script, appearing to read "T. Glenn Foster".

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



April 28, 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

Edmonson
§173.219
§172.102
§173.185
Applicability
14-0089

Dear Mr. Betts:

I am writing to you to request a Department of Transportation (DOT) interpretation concerning the applicability of 49 CFR 173.219 to the international air shipment of a life-saving appliance containing a lithium battery prepared under International Civil Aviation Organization (ICAO) requirements (Packing Instruction 955), as authorized under 49 CFR 171.22.

This question concerns the two below-listed DOT basic descriptions:

- UN3072, Life-saving appliances, not self-inflating, 9
- UN2990, Life-saving appliances, self-inflating, 9

49 CFR 173.219(b)(3) requires that:

.... "Life saving appliances containing lithium batteries must be transported in accordance with 173.185, and Special Provisions 188, 189, A101, A103 and A104 as applicable."

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.

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DOT interpretation letter request
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ICAO Packing Instruction 955 requires:

Life-saving appliances, such as life-rafts, life-vests, aircraft survival kits or aircraft evacuation slides, may only contain the dangerous goods listed below:

* * *

(d) electric storage batteries (Class 8) and lithium batteries (Class 9); and

* * *

Question: As the requirement to meet 49 CFR 173.219(b)(3) is not listed in 49 CFR 171 Subpart C, would the air shipment of a life-saving appliance containing a lithium battery prepared under ICAO be subject to the applicable provisions of 49 CFR 173.185, and Special Provisions 188, 189, A101, A103 and A104? Or, would following the requirements set out in ICAO Packing Instruction 955 (where no additional more restrictive requirements concerning the lithium battery are listed) 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

Drakeford, Carolyn (PHMSA)

From: Jarman, Erin <erin.jarman@urs.com>
Sent: Monday, April 28, 2014 2:47 PM
To: PHMSA HM InfoCenter
Cc: Drakeford, Carolyn (PHMSA); Norris, Carolyn; Romach, Andy
Subject: Submission of Interpretation Letter
Attachments: request for DOT reg interpr li batt life saving 04282014.pdf

Dear Info Center,

Attached is a request for formal interpretation related to life saving devices. If you need additional information, please feel free to contact me via e-mail or at the telephone number below. Have a great day!

Erin N. Jarman
Environmental Scientist
URS Corporation
1600 Perimeter Park Dr.
Suite 400
Morrisville, NC 27560

919-461-1478 (office phone)

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