



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

AUG 14 2017

Geoffrey DeVinney
Global Labeling and Packaging Manager
Solvay CYTEC Group
1300 Revolution Street
Havre de Grace, MD 21078

Reference No. 17-0023

Dear Mr. DeVinney:

This letter is in response to your February 17, 2017, email and subsequent phone conversation requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the lithium battery mark for smaller lithium cells or batteries. You indicate that your company offers temperature recorders for transportation by aircraft and that each temperature recorder is powered by a single lithium metal battery with a lithium metal content less than 2 grams. In your email, you describe the following scenario:

- There are six packages are on a pallet.
- Two of the packages on the pallet contain a temperature recorder powered by a lithium metal battery for a total of two lithium batteries contained in equipment.
- Each lithium metal battery meets the size requirements in § 173.185(c).

Specifically, you ask if the packages described in your scenario must display the lithium battery mark.

The answer is no. In accordance with § 173.185(c), the lithium battery mark is not required when there are “no more than four lithium cells or two lithium batteries contained in equipment, where there are no more than two packages in the consignment.” The packages in the scenario above are not required to display the lithium battery mark because the consignment only contains two packages each containing no more than two lithium batteries contained in equipment. Although there are additional packages within the consignment, the additional packages are not included in the calculation of number of packages in the consignment limit, because they do not contain any lithium batteries.

Additionally, on March 30, 2017, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule titled, “Hazardous Materials: Harmonization with International Standards (RRR)” [HM-215N; 82 FR 15796] to align the HMR with certain international standards. In this rulemaking, PHMSA incorporated by reference the 2017–2018 version of the International Civil Aviation Organization (ICAO) Technical Instructions for the Safe Transport

of Dangerous Goods by Air (Technical Instructions). The HM-215N final rule also revised the language in § 173.185(c)(3) to align with the applicable requirements of the ICAO Technical Instructions. Therefore, the lithium battery mark requirements would be the same if you were to ship the lithium metal batteries in accordance with the ICAO Technical Instructions for your scenario.

In addition to the HMR requirements, when devices are transported in active mode, compliance with all applicable FAA requirements, including those in 49 CFR § 91.21 that address operation of portable electronic devices aboard aircraft must be ensured. Information and guidance to assist with compliance of the requirement can be found in Advisory Circular (AC) 91.21-1C "Use of Portable Electronic Devices Aboard Aircraft." For additional information regarding the FAA requirements, or if you seek an interpretation on whether your particular device meets the electronic transmission requirement contained in 14 CFR § 91.21 you may contact the FAA at the following address:

Federal Aviation Administration
Office of the Chief Counsel
Regulations Division
800 Independence Avenue SW
Washington, DC 20591

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dirk Der Kinderen", written over a horizontal line.

Dirk Der Kinderen
Chief, Standards Development
Standards and Rulemaking Division

Dodd, Alice (PHMSA)

*Meller
§173.185
Exceptions/Batteries
17-0023*

From: INFOCNTR (PHMSA)
Sent: Wednesday, February 22, 2017 3:00 PM
To: Hazmat Interps
Subject: FW: 173.185 Exceptions LOI
Attachments: DOT Letter 173.185.doc

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. DeVinney spoke with Jodi. Please let me know if you have any questions.

Thanks,
Jordan

From: DeVinney, Geoffrey [mailto:Geoffrey.DeVinney@solvay.com]
Sent: Friday, February 17, 2017 11:49 AM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: 173.185 Exceptions LOI

Dear PHMSA,

Please see the attached letter requesting guidance on 49 CFR 173.185 Exceptions for smaller cells or batteries.

Best regards,

Geoff

Please note that my email address has changed to Geoffrey.DeVinney@solvay.com

Geoffrey S. DeVinney
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U.S. DOT
PHMSA Office of Hazardous Materials
Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

February 17, 2017

Subject : Lithium batteries contained in equipment

Regulation 49 CFR 173.185 (c) (3) / IATA PI970 Section II

Dear PHMSA

We ship rolls of adhesive film in dry ice with temperature recorders where each recorder contains a AA lithium metal battery with a lithium metal content less than 2g. In accordance with 49 CFR 173.185, the question is when shipping by air as long as we do not exceed the four cells or two batteries per package, do we need to apply the Lithium Battery handling Label to the packages containing the temperature recorders?

Follow up question:

The temperature records we use meet the requirements of IATA PI 970 Section II. Working with our Logistics team we were discussing the exceptions as noted in the PI shown below.

Scenario: If we have 6 cartons on a pallet and 2 cartons have 2 temp recorders each for a total of 4 cells, do we need to label? The consignment is greater than "two packages" however I have not exceeded the number of cells or number of packages containing batteries. Do I label because I have greater than two packages or should I not label because two packages or less contain no more than four cells?

**IATA 58th Edition
PI 970 Section II**

Exception:

consignments of two packages or less where each package contains no more than four cells or two batteries installed in equipment

Regards,

Geoffrey DeVinney
Global Labeling and Packaging Manager