



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

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

APR 30 2010

Mr. Jonathan Epstein
Partner
Holland & Knight
2099 Pennsylvania Ave. N.W.
Suite 100
Washington, DC 20006

Ref. No. 10-0071:

Dear Mr. Epstein:

This responds to your March 26, 2010 email requesting clarification of the requirements for shipping lithium batteries in accordance with 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). Specifically, you ask if the information required in the document accompanying the shipment may be printed directly onto packages or printed on a label affixed to the packages.

The answer is no. Both the HMR and the ICAO TI require a paper document indicating that the package contains lithium batteries and special procedures should be followed if the package is damaged to accompany the shipment. Alternatively this document may be transmitted separately to the carrier in a manner that permits the information to be produced as a paper document without delay.

I hope this answers your inquiry. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is written in a cursive style with a large, looping initial "C".

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Drakeford, Carolyn (PHMSA)

Leary
3173.185
Lithium Batteries

10-0071

From: Leary, Kevin (PHMSA)
Sent: Friday, March 26, 2010 5:21 PM
To: Drakeford, Carolyn (PHMSA)
Cc: Betts, Charles (PHMSA)
Subject: FW: Additional Documentation Requirement for Shipments of Lithium Batteries installed in Equipment

Carolyn,

Please log this in for an interp.

Thanks.

Kevin

From: Jonathan.Epstein@hklaw.com [mailto:Jonathan.Epstein@hklaw.com]
Sent: Friday, March 26, 2010 10:31 AM
To: Leary, Kevin (PHMSA)
Subject: Additional Documentation Requirement for Shipments of Lithium Batteries installed in Equipment

Kevin,

My client a large consumer electronics manufacturer is trying to reach consensus with their primary carrier regarding how these consumer products should be labeled and documented. For purposes of my question, assume these are lithium ion batteries installed in equipment and subject to section II of PI 967, but required to have a lithium battery handling label and thus required to have an "accompanying document" with certain required information.

One proposal is to meet this "additional document" requirement by printing it directly on the packages or printing it on labels which would be attached to the packages and/or the master pack (when multiple packages are packed together).

The ICAO guidance indicates that the "document" can be in "any form" provided it accompany the consignment, for example it may be "provided separately to the carrier or in a pouch attached to the package." I traded e-mails with Brenda Sullivan at IATA who was of the opinion that printing on the package was insufficient and that the "document" needed to be a separate document.

Has PHMSA provided any guidance on this "document" requirement? For example if the air-waybill or packing list is provided electronically to the carrier (if this is contains the additional document language), would this suffice? Alternatively, would a label on the package/master pack that contains the documentation suffice? or does this need to be a physical document.

I appreciate your continued guidance on these issues.

Regards,

Jonathan Epstein | Holland & Knight

Partner

2099 Pennsylvania Avenue, N.W., Suite 100 | Washington DC 20006 | USA

Phone 1.202.828.1870 | Fax 1.202.955.5564 | Mobile 1.301.928.4820

jonathan.epstein@hklaw.com | www.hklaw.com