



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAY 16 2012

Sandra Harding
3741 Eight Mile Road
Melbourne, KY 41059

Reference No.: 11-0288

Dear Ms. Harding:

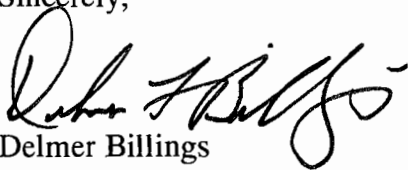
This is in response to your November 15, 2011 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to shipments of battery powered vehicles or equipment, UN 3171. You describe a scenario where a lithium battery powered vehicle with an untested or prototype battery is offered for transportation in full compliance with the ICAO Technical Instructions aboard a United States registered aircraft operating point to point outside of the United States. Packaging instruction 952 of the ICAO Technical Instructions requires approval only from the State of Origin for shipments of battery powered vehicles or equipment, UN 3171, containing a prototype battery that has not been tested in accordance with the UN Manual of Tests and Criteria. Specifically you ask if this shipment requires a Competent Authority Approval from the United States in addition to the approval from the State of Origin.

The answer to your question is yes. Section 171.24 provides additional requirements for the use of the ICAO Technical Instructions. Additional requirements for shipments of prototype lithium batteries and cells are outlined in § 171.24 (d)(1)(iii) which states that prototype lithium batteries and cells are forbidden aboard passenger aircraft and must be approved by the Associate Administrator prior to transportation aboard cargo aircraft in accordance with the requirements of Special Provision A55. While the packaging conditions set forth in Special Provision A55 are specific to shipments of standalone batteries, the requirement to receive US Competent Authority Approval in § 171.24 (d)(1)(iii) does not make a distinction between stand-alone prototype batteries and prototype batteries that have been installed in a vehicle. The general provisions or packaging requirements PHMSA requires

for shipments of lithium battery powered vehicles may differ from the provisions stated in A55. A shipment of a lithium battery powered vehicle with an untested or prototype battery offered for transportation on cargo aircraft in full compliance with the ICAO Technical Instructions aboard a United States registered aircraft operating point to point outside of the United States must receive a US Competent Authority Approval as stated in § 171.24(d)(1)(iii).

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Delmer Billings". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Webb
5/171.24
0/173.220

From: Kelley, Shane (PHMSA)
Sent: Thursday, November 17, 2011 5:02 PM
To: Drakeford, Carolyn (PHMSA)
Cc: Betts, Charles (PHMSA); Supko, Ben (PHMSA)
Subject: FW: HELP! please

ICAO
11-0298

-----Original Message-----

From: Sandra Harding [<mailto:sharding29@gmail.com>]
Sent: Thursday, November 17, 2011 10:52 AM
To: Kelley, Shane (PHMSA)
Subject: Re: HELP! please

Hi Shane,

While referenced consignment has unfortunately been rejected for carriage due to U.S. restrictions, I would still like to receive interpretation on this issue - will you follow this up or should I initiate a request?

thanks

Sandra

----- Original Message -----

From: <shane.kelley@dot.gov>
To: <sharding29@gmail.com>
Sent: Tuesday, November 15, 2011 1:36 PM
Subject: RE: HELP! please

Sandra you raise an excellent question. We may need to route this through our interpretation process and coordinate with FAA on a response, as the view you are taking would mean any state of origin authority could approve without a PHMSA review. I will discuss with others in the office and advise soonest.

From: Sandra Harding [<mailto:sharding29@gmail.com>]
Sent: Tue 11/15/2011 1:20 PM
To: Kelley, Shane (PHMSA)
Subject: HELP! please

Hi Shane,

I have a somewhat urgent question that I need your help with - It is in reference to vehicles (~~UN 3166 / UN3171~~) with ~~untested/prototype installed lithium batteries being transported point-to-point outside of U.S., but on U.S. registered aircraft.~~

Hazmat info center advises that U.S. Approval is required, but want to double check with you because:

A. ICAO Packing Instruction 952 requires approval of State of Origin (German LBA - obtained).

B. 49 CFR 171.24 and ICAO Variation US-01 require Approval for untested lithium batteries being transported IAW SP A55 (49CFR) or A88 (ICAO); however, both of these special provisions apply to batteries being transported separately, rather than installed in vehicles.

C. 49 CFR 173.220(d) does state that U.S. approval is required for untested batteries installed in vehicles, yet this requirement is not cited where use of the ICAO TI is referenced.

Can you help, please?????

Thank you!

Sandra Harding