



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**
OCT 29 2007

1200 New Jersey Ave., S.E.
Washington, DC 20590

Mr. Ross E. Dueber, Ph.D.
President & CEO
ZPower, Inc.
4765 Calle Quetzal
Camarillo, CA 93012

Ref. No. 07-0152

Dear Dr. Dueber:

This responds to your electronic mail regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to your company's rechargeable, silver-zinc battery. You ask whether these batteries should be regulated as "dry" batteries (similar to nickel-cadmium batteries) under the HMR and the various international dangerous goods regulations.

Your understanding is correct. Your classification of the batteries was recognized in a July 24, 2007 meeting with Office of Hazardous Materials Safety staff members. Provided your batteries are securely packaged and offered for transportation in a manner that prevents the dangerous evolution of heat and protects against short circuits, as provided in Special Provision 130, they are not subject to any other requirements of the HMR. For international air and vessel transportation, your battery shipments must conform to Special Provision A123 in the International Civil Aviation Organization Technical Instructions on the Transport of Dangerous Goods and Special Provision 304 of the International Maritime Dangerous Goods Code, respectively.

I trust this satisfies your request. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



070152

173.21 (c)

Stevens
§173.21(c)
Batteries
07-0152

Drakeford, Carolyn <PHMSA>

From: Mazzullo, Ed <PHMSA>
Sent: Tuesday, August 07, 2007 1:34 PM
To: Drakeford, Carolyn <PHMSA>
Cc: Betts, Charles <PHMSA>; Gale, John <PHMSA>; Gorsky, Susan <PHMSA>; Mazzullo, Ed <PHMSA>; Mitchell, Hattie <PHMSA>
Subject: FW: ZPower Battery Classification

From: Ross Dueber [mailto:ross.dueber@zpowerbattery.com]
Sent: Friday, August 03, 2007 3:45 PM
To: Mazzullo, Ed <PHMSA>
Cc: Ke, Charles <PHMSA>; Sargent, Dave <PHMSA>; Special Permits <PHMSA>
Subject: ZPower Battery Classification

Mr. Edward Mazzullo
Director, Office of Hazardous Materials Standards
1200 New Jersey Ave.
Washington, DC 20590

Dear Mr. Mazzullo,

As a follow-up to my meeting with Mr. Delmer Billings, Mr. Dave Sargent, Dr. Charles Ke, and several other PHMSA staff on July 24, 2007, I am writing to request confirmation from PHMSA that ZPower's rechargeable, silver-zinc battery is regulated as a "dry" battery similar to nickel-cadmium batteries.

ZPower's silver-zinc batteries are chemically similar to existing alkaline, silver-zinc button batteries shipped and used today in cameras and electronic devices, and are of the same general composition as rechargeable nickel-cadmium and nickel-metal hydride batteries. ZPower's batteries consist of a zinc negative electrode, silver oxide positive electrode, polymer separator, and aqueous, alkaline electrolyte that are packaged in a hermetically sealed container.

Based upon input that I received from PHMSA at our July 24 meeting as well as my own research, it is my understanding that our silver-zinc rechargeable batteries are recognized as "Batteries, Dry" and subject only to 49 CFR 173.21(c) and Special Provision 130 of the U.S. hazardous materials regulations, Special Provision A123 of the ICAO Technical Instructions, and Special Provision 304 of the IMDG Code. However, I would appreciate a letter from your office that confirms these are the only provisions from the relevant hazardous materials (dangerous goods) regulations that apply to our batteries for purposes of shipping within the U.S. and internationally.

Should you have any questions or require additional information, please contact me. Also please note that our company name recently changed from Zinc Matrix Power, Inc. to ZPower, Inc.

Best Regards,

Ross E. Dueber, Ph.D.
President & CEO

ZPower, Inc.
4765 Calle Quetzal
Camarillo, CA 93012
Office (805) 383-3167
Fax (805) 445-4487

8/7/2007