



**KYLE PITSOR**

Vice President, Government Relations

September 4, 2009

Ms. Cynthia Douglass  
Acting Deputy Administrator  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Ms. Douglass,

Thank you for the opportunity to share views on behalf of the member companies of NEMA's Dry Battery Section regarding the August 20 letter you received from the Air Line Pilots Association, International (ALPA).

NEMA's Dry Battery Section represents major manufacturers of portable primary batteries of many chemistries, including lithium. As you know, military, aerospace, biomedical and consumer applications have been made possible, and even driven by, the development of lithium batteries. Non-rechargeable lithium metal batteries are produced in a wide variety of sizes, from coin cells to cylindrical batteries (i.e. AA, AAA, 123), and are used in a wide variety of everyday items, including key fobs, calculators, and digital cameras, as well as life-saving devices such as pacemakers and external defibrillators. They also serve as memory back-up in numerous consumer and critical safety applications. What is being requested by ALPA will have a significant negative impact on commerce and our industry members.

According to its biannual schedule, PHMSA is expected to issue a Notice of Proposed Rulemaking this autumn in order to propose adaptation of the U.S. Hazardous Materials Regulations (HMR) to account for recent changes in the international model regulations. Many changes have been made by the United Nations and the International Civil Aviation Organization to their requirements for lithium batteries, including changes that were requested by ALPA, and to date these changes have not taken full effect in the U.S. Before it considers adding on new requirements that have not been fully vetted, PHMSA should proceed with its NOPR to bring the U.S. into harmonization with the rest of the world (with the exception of the U.S. ban on lithium metal batteries as cargo on passenger aircraft, which we are not contesting at this time) and provide for a review period to assess adoption and compliance with the new regulations. The fact that the U.S. is not harmonized with the rest of the world adds a layer of complexity in compliance and an additional economic burden on U.S. battery companies.

**National Electrical  
Manufacturers Association**

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At the same time, we agree with ALPA that luck is not a sound safety strategy. Safety requires diligent respect for and implementation of quality, standards, testing, and regulations. At least two of the recent safety incidents cited by ALPA in its letter – as well as most of the scenarios in the FAA’s listing of lithium battery incidents in the air mode – were cases of non-compliance with existing provisions of the HMR. Compliance is fundamental and those offering packages for shipment must be aware of and follow the current regulations.

NEMA is the largest trade association representing the interests of U.S. electrical industry and medical imaging equipment manufacturers, whose worldwide annual sales of electrical products exceed \$120 billion. Our mission is to improve the competitiveness of member companies by providing high quality services that impact positively on standards, government regulation and market economics. Our approximately 430 member companies, representing 400,000 jobs, manufacture products used in the generation, transmission, distribution, control, and use of electricity. These products are used in utility, medical imaging, industrial, commercial, institutional, and residential applications.

Thank you for your consideration of these comments. We look forward to continuing to work with PHMSA and other stakeholders to ensure the safety of batteries in transportation.

Sincerely,

A handwritten signature in black ink that reads "Kyle Pitsor". The signature is written in a cursive, flowing style.

Kyle Pitsor  
NEMA Vice President, Government Relations

cc: The Honorable Ray LaHood, Secretary of Transportation  
The Honorable J. Randolph Babbitt, Administrator, Federal Aviation Administration