

# U.S. Department of Transportation Takes Lithium Battery Issue to International Level

---

September 22, 2011

The U.S. Department of Transportation (U.S. DOT) has filed a proposal with the International Civil Aviation Organization Dangerous Goods Panel (ICAO DGP) to eliminate the exceptions for small, consumer-type lithium ion and lithium metal cells and batteries currently excepted from regulation under the ICAO Technical Instructions. The ICAO Technical Instructions are the regulations that govern the international transport of dangerous goods (hazardous materials) by air. (Lithium batteries are regulated as Class 9 dangerous goods.) The Agency is not requesting the ICAO DGP to eliminate the exception for small cells and batteries packed with or contained in equipment.

The U.S. DOT's proposal is generally consistent with a proposed rule that the Agency published on January 11, 2010, which has been held up at The Office of Management and Budget since October 2010. If the U.S. DOT's ICAO proposal is adopted, consumer-type lithium ion and lithium metal batteries would need to be packaged as fully regulated hazardous materials when offered internationally for air transport starting January 1, 2013. In addition, the U.S. DOT would likely consider adopting a similar provision for incorporation into the U.S. hazardous materials regulations applicable to domestic air transport.

The U.S. DOT's proposal will be addressed at the ICAO DGP meeting October 10 - 21, 2011 in Montreal.

## Authors

---

George A. Kerchner  
Consultant  
202.719.4109  
gkerchner@wiley.law