



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

NOV 30 2001

Ms. Shelly M. Marasco
Sales Coordinator
Harry E Smith and Associates
Box 151, R.D.1
Irwin-Herminie Road
Rillton, PA 15678

Ref. No. 01-0267

Dear Ms. Marasco:

This is in response to your October 10, 2001 letter and subsequent telephone conversation with a member of my staff requesting clarification of the provisions in § 173.220 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a non-spillable battery contained in a forklift is subject to the HMR.

The answer is no. A battery powered forklift equipped with a non-spillable wet electric storage battery, provided the forklift contains no other hazardous materials, is not subject to the HMR (§ 173.220(a)). A non-spillable battery must be marked "NONSPILLABLE" or "NONSPILLABLE BATTERY," securely installed, fastened in an upright position, and protected from short circuits when contained in mechanical equipment. See § 173.159(d).

I hope this satisfies your request.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



010267

173.220



R.D. 1, Box 151
Irwin-Herminie Road
Rillton, PA 15678
1-800-336-5438
FAX: (724) 446-3222

October 11, 2001

Office of Hazardous Materials Transportation
Research and Special Programs Administration
U.S. Department of Transportation
Washington, D.C. 20590

Corbin
§ 173.220
Classification
01-0267

Dear Sir or Madam:

This confirms my understanding of the 10-9-01 conference call discussion with Ben of RSPA Hazardous Material Information Center representative, Susan Camara, Supervisor of Regulatory Compliance for USF Holland and Dana Probasco, Haz-Mat Specialist for R & L Transfer, regarding transportation of our battery powered equipment (see enclosed product literature and operators manual) that my company ships via common carrier.

As long as the requirements of 173.220 (c) pertaining to the securement and protection of the installed wet cell batteries are observed, the equipment may be shipped for transportation via common carrier described only as their product trade names and are excepted from all other requirements of the hazardous materials regulations according to 173.220 (e).

The installed gel cell batteries are observed as non-regulated material and can be shipped described by their product trade names.

If this is not correct, I can be reached directly at 1-800-336-5438 or you may fax your comments to 724-446-3222. If I do not receive a written response by October 22, 2001, I will assume this interpretation is correct.

Yours truly,

Shelly Marasco
Sales Coordinator

Enclosures