



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

AUG 28 2015

Mr. Barry Partlow
Toyota Materials Handling Northeast Inc.
2564 Industry Lane
Norristown, PA 19403

Ref. No.: 15-0156

Dear Mr. Partlow:

This is in response to your July 27, 2015 letter requesting clarification of exceptions for lead acid (wet) batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you request confirmation that you may transport lead acid batteries in accordance with the exception prescribed in § 173.159(e) in a company vehicle or if this exception only applies to battery vendors.

Section 173.159(e) provides relief from the requirements of the HMR for highway or rail shipments of electric storage batteries containing electrolyte or corrosive battery fluid without limiting the exception to a certain transporter type. Provided the conditions § 173.159 (e)(1) through (4) are met, the batteries may transported in a company vehicle and are not otherwise subject to the HMR.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane Pfund
International Standards Coordinator
Standards and Rulemaking

Wiener
§ 173.159(e)
Batteries
15-0156

TOYOTA

TOYOTA MATERIAL HANDLING NORTHEAST

U. S. DOT
PMHSA Office of Hazardous Materials Standards
Attn: PHH-10
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Our company is a full service forklift dealer offering sales, service, parts, and rentals. We have three locations; Norristown, PA serving the Philadelphia area and Southeastern PA, Cinnaminson, NJ serving Southern NJ, and Hanover, MD serving the Baltimore area and Eastern MD. We operate a rollback truck at each location for the purpose of picking up and delivering forklifts and attachments. This includes electric powered trucks which use very large lead acid industrial batteries. For the near 30 years that I have been in this industry we have operated under the premise that we could transport these batteries if they were properly installed in a forklift but could not if they were not (i.e. on a pallet). On the occasions which we need to move a battery by itself, either to a customer location or from one of our locations to another, we have always used our battery vendor to transport them or have had to install them in a truck and move the truck as well. These scenarios leave us with either a large amount of additional work to install and remove from a truck or at the will of our vendors who often do not share the same urgency to take care of our customers as we do. A recent event in which our vendors failed to help us and our customer out during an urgent situation has left us questioning why our vendor can deliver these batteries but we can't.

When I started looking into the regulations my interpretation was that there was no reason that we couldn't. According to 49 CFR 173.159(e)

(e) When transported by highway or rail, electric storage batteries containing electrolyte or corrosive battery fluid are not subject to any other requirements of this subchapter, if all of the following are met:

- (1) No other hazardous materials may be transported in the same vehicle;*
- (2) The batteries must be loaded or braced so as to prevent damage and short circuits in transit;*
- (3) Any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries; and*
- (4) The transport vehicle may not carry material shipped by any person other than the shipper of the batteries.*

Wanting to be sure of my interpretation I emailed PMHSA with my question. I received a return phone call. The woman I spoke with agreed with me until I described to her our business as I did to you earlier in this letter. Her position then changed and she felt that these would be Class 8 Corrosives under the Materials of Trade. Going by several letters of interpretation I've read on your website if we are performing all the procedures to prepare the battery(s) for shipment and are in compliance with 49 CFR 173.159 (e) (1-4) that we are the transporter regardless of ownership and are fine to transport these battery(s) without being placarded.

We are seeking a letter of interpretation in this matter as it pertains to our company so we may establish a Standard Operating Procedure that may allow us to better serve our customers but will assure that we remain compliant with related regulations.

Your help in clearing this up for us would be greatly appreciated. I would be pleased to provide any additional information you may need.

Sincerely,



Barry Partlow
Fleet, Safety, and Training Manager
Toyota Material Handling Northeast Inc.
2564 Industry Lane
Norristown, PA 19403