



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 1 1 2012

Mr. Andy Romach
URS Corporation
1600 Perimeter Park Drive
Morrisville, NC 27560

Ref. No.: 12-0186

Dear Mr. Romach:

This responds to your August 16, 2012 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the transport of wet electric storage batteries by highway. Specifically, you are requesting clarification of the exception provided in § 173.159(e) and if partial use of this exception is permissible.

The answer is yes, provided compliance with all of the requirements specified in § 173.159(e)(1)-(4) is met. When transported by highway or rail, electric storage batteries containing electrolyte or corrosive battery fluid are not subject to any other requirements of the subchapter if: (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.

Regarding your question concerning partial use of this exception, properly marking or labeling a crate of batteries or placarding a transport vehicle when using this exception is not a violation of the HMR. However, we do not recommend partial use of this exception because it can create confusion in the enforcement or emergency response community that may result in issuance of a ticket or frustration of your shipment.

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

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division



August 16, 2012

Nickels
§173.159(e)
Ba Heries
12-0186

Mr. Charles Betts
Director, Office of Hazardous Materials Standards
Pipeline and Hazardous Material Safety Administration (PHMSA)
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue SE, 2nd Floor
Washington, DC 20590-0001
Email: charles.betts@dot.gov

RE: Request for Regulatory Interpretation for 49 CFR 173.159(e)

Dear Mr. Betts:

I am writing to request a written regulatory interpretation concerning the scenario below:

We would like to ship batteries taking advantage of the exception in 49 CFR 173.159(e), which allows shipment of batteries as not subject to the hazardous material regulations when shipped by a dedicated transporter with no other hazardous materials onboard the vehicle, and batteries and other materials securely blocked and braced.

The batteries we would like to ship are received from the manufacturer packaged in crates, marked with the UN number and proper shipping name "UN2795, Batteries, Wet, Filled with Alkali" and display a Corrosive hazard label.

If we ship these batteries following all of the requirements set out in 49 CFR 173.159(e)(1) through (4), are we allowed to leave the hazard markings (UN number and proper shipping name) and Corrosive hazard label applied to the crates?

Based on a call to the Info Center, Adam advised that there is no prohibition listed in 49 CFR 173.159(e) that would require the hazard markings and hazard label to be removed. Please confirm that we would be allowed to leave the hazard markings and label on the crates during transport when shipping under the exception set out in 49 CFR 173.159(e).

I appreciate your assistance.

Sincerely,

Andy Romach, DGSA
Regulatory Compliance Manager
URS Corporation