



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

NOV 16 2006

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

Mr. Robert L. Summers
Operations Manager
H.C. Gabler, Inc.
P.O. Box 220
Chambersburg, PA 17201-0220

Ref. No. 06-0240

Dear Mr. Summers:

This responds to your August 11, 2006 letter concerning the applicability of the Hazardous Materials Regulations (49 CFR Parts 171-180) to shipments of wet batteries. Specifically, you ask about the exception in §173.159(e) for shipments of electric storage batteries containing electrolyte or corrosive battery fluid.

According to your letter, you are a third-party logistics provider handling battery shipments from several different manufacturers. You ask if you may utilize the exception in §173.159(e) to consolidate battery shipments from several different manufacturers on one transport vehicle.

In accordance with §173.159(e), electric storage batteries containing electrolyte or corrosive battery fluid are excepted from regulation under the HMR for transportation by highway or rail provided no other hazardous materials are transported in the same vehicle; the batteries are loaded or braced to prevent damage and short circuits in transit; any other material in the vehicle is secured to prevent contact with or damage to the batteries; and the transport vehicle does not carry any material shipped by any person other than the shipper of the batteries.

Under the HMR, transportation in commerce begins when a carrier takes physical possession of a hazardous material for purposes of transporting it and continues until the hazardous material is delivered to the destination indicated on a shipping document, package marking, or other medium (see §171.1(c)). For the scenario described in your letter, transportation of the batteries delivered to your warehouse ends upon delivery provided the shipping documentation indicates that your warehouse is the shipment destination. For subsequent transportation of these batteries, you are considered the



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173.159(e)

shipper for purposes of the HMR and may utilize the exception in §173.159(e) to consolidate batteries from different manufacturers on one transport vehicle.

I hope this answers your inquiry.

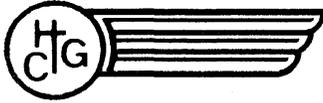
Sincerely,



John A. Gale

Chief, Standards Development

Office of Hazardous Materials Standards



Boothe
\$173.159(e)
Batteries
06-0240
H.C. GABLER, INC.

P.O. BOX 220 • CHAMBERSBURG, PENNSYLVANIA 17201-0220 • 717-264-4184 • FAX 717-264-8967

August 11, 2006

**Hazardous Materials Registration Manager
PHH-62
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
400 Seventh Street - S.W.
Washington, DC 20590**

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MAIL ROOM

Subj: Reg. No. 071906 550 067OQ issued 7/19/06

Dear Sir or Madam:

We are a third party logistics provider for a Battery Manufacturer who supplies a mutual customer in Central PA. The batteries are identified as UN2794 and are a Class 8 Corrosive.

As a recent licensee under 49 U.S.C. 5108 I am seeking clarification of Rule 173.159 (e) paragraph (4) which states "the transport vehicle may not carry material by any person other than the shipper of the batteries. My question is when does my responsibility as a shipper begin under the 3PL program. Once I accept the batteries into our warehouse and take possession of the product do I then become the shipper which would allow me to ship batteries with another manufacturer of batteries. For example could I ship Class 8 Corrosive, Wet Batteries and consolidate one manufacturers products with another vendor that I have in our warehouse.

Thank you for your prompt response in clarifying this issue for us.

Sincerely,

**Robert L. Summers
Operations Manager**