

(iii) any other material loaded in the same vehicle is blocked, braced, or otherwise secured to prevent contact with or damage to the batteries, and

(iv) the transport vehicle is carrying no material shipped by any person other than the shipper of the batteries.

This amendment is effective December 30, 1969. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, title 18, United States Code; sec. 9, Department of Transportation Act (49 U.S.C. 1657))

Issued in Washington, D.C., on August 25, 1969.

E. H. HOLMES,  
Acting Administrator,  
Federal Highway Administration.

[F.R. Doc. 69-10367; Filed, Aug. 28, 1969; 8:48 a.m.]

## Title 49—TRANSPORTATION

### Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-21; Amdt. 173-13]

#### PART 173—SHIPPERS

##### Electric Storage Batteries; Exemption

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to expand an exemption for shipments of electric storage batteries containing electrolyte or battery fluid by highway.

On April 12, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, docket HM-21; notice No. 69-9 (34 F.R. 6444), which proposed an amendment of 49 CFR 173.260(e) that would expand an exemption concerned with the shipping of electric storage batteries by highway. Materials other than hazardous materials which are not permitted under the existing exemption would be permitted to be carried in the same motor vehicle with batteries under certain conditions.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received no objection was taken to the provisions of the basic proposal except that one commenter believes the exemption extension is discriminatory because rail transportation was not included. The Board will consider this comment as a petition for further rule making since such a proposal was not made by the Board in the notice.

In consideration of the foregoing, paragraph (e) of § 173.260 of title 49 of the Code of Federal Regulations is amended to read as follows:

§ 173.260 Electric storage batteries, wet.

(e) Electric storage batteries containing electrolyte or battery fluid are exempt from Parts 170-189 of this chapter, and Part 397 of Chapter III of this title, for carriage by highway or rail if—

(1) For shipments by rail, the batteries (either wet or dry) constitute the only commodity being transported and are loaded or braced to prevent damage in transit and short circuits.

(2) For shipments by highway,

(i) No other hazardous materials are transported in the same vehicle, and

(ii) the batteries are loaded or braced so as to prevent damage and short circuits in transit,

[Docket No. HM-20; Amdt. 173-12]

#### PART 173—SHIPPERS

##### Hydrofluoric Acid

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize shipments of hydrofluoric acid in specifications 2S and 2SL polyethylene liners inside specification 37M cylindrical steel overpacks.

On April 12, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, docket HM-20; notice No. 69-8 (34 F.R. 6444), which proposed to authorize additional inside liners 2S and 2SL with specification 37M steel overpacks for hydrofluoric acid. It was proposed to cancel § 173.264 (a) (18) and combine the provisions thereof with paragraph (a) (17) of that section. Interested persons were afforded an opportunity to participate in this rule making.

Several comments were received concerning the notice. One commenter raised the point that the proposal would have the effect of permitting the use of specification 37M overpacks having capacities up to 55 gallons and doubted that it was the intent of the proposal to so provide. This commenter indicated that its experience would not justify a capacity of 55 gallons in a drum of 20 gauge thickness. Another commenter raised the question of disposal of "single-trip drums" in this service. Since the 37M drum is a nonreusable drum rather than a "single-trip" drum, it is assumed that the commenter meant to refer to the former.

Authorizing the use of specifications 2S and 2SL liners inside specification 37M overpacks would permit the composite package to have capacities up to 55 gallons. This was the intent of the notice, and of the petition on which the notice was based. The Board believes that this change is justified in view of the satisfactory experience gained under the terms of special permits. The specification 2T liner will continue to be limited to 13 gallons capacity. As indicated