



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JUN 11 2008

Mr. Daniel Raver
Safety & Compliance Manager
Dist-Trans Co.
1654 Williams Rd.
Columbus, OH 43207

Ref. No.: 08-0124

Dear Mr. Raver:

This responds to your April 24, 2008 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a carrier may use the exception for electric storage batteries provided in § 173.159(e) when the original shipper of the batteries chooses not to use the exception. Additionally, you ask if the bill of lading must include a statement indicating that the batteries are transported in accordance with § 173.159(e).

Section 173.159(e) provides relief from the requirements of the HMR for shipments of electric storage batteries containing electrolyte or corrosive battery fluid when the following conditions are met:

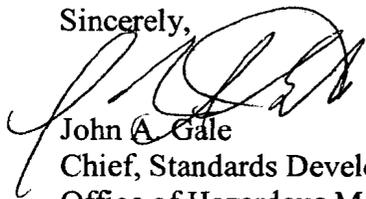
- (1) Transportation is by highway or rail;
- (2) No other hazardous materials are transported in the same vehicle;
- (3) The batteries are loaded or braced to prevent damage or short circuits during transportation;
- (4) Any other material loaded in the same vehicle is blocked, braced, or otherwise secured to prevent contact with or damage to the batteries; and
- (5) The transport vehicle does not carry material shipped by any person other than the shipper of the batteries.

A carrier may use the exception in § 173.159(e), even when the offeror of the batteries does not use the exception. For example, if an offeror provides placards to the carrier for a shipment of batteries, the carrier may choose to ship the batteries in accordance with § 173.159(e) and not display the placards on the transport vehicle. In this situation, the carrier must ensure that the requirements in § 173.159(e) are met.

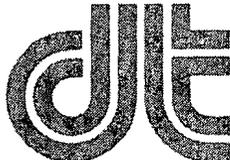
A shipment of batteries made in accordance with § 173.159(e) does not require a shipping paper. Therefore, the bill of lading is not required to indicate that the batteries are transported in accordance with § 173.159(e).

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'John A. Gale', is written over the typed name.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

 **Dist-Trans Co.**
An ODW Logistics Company

Supko
§173.159(e)
Batteries
08-0124

24-April-2008

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
400 7TH Street S.W.
Washington, D.C. 20590-0001

Dear Mr. Mazzullo,

Please provide clarification on two issues pending with respect to Dist-Trans transporting batteries from a 3PL provider.

Section 173.159(e) provides relief from the requirements of the HMR for shipments of electric storage batteries containing electrolyte or corrosive battery fluid if we transport by highway, and meet all of the conditions. It is our understanding that if all the criteria are met, neither placarding or drivers hazardous materials endorsements are required.

In addition if a shipper provides placards and does not choose to use the exception may the carrier use the exception and choose not to display the placards as long as the shipment satisfies the conditions of the exception or must it be noted on the BOL from the shipper or 3PL?

If you require any additional information, please feel free to contact me at 800-743-7062 ext 7874 or draver1@odwlogistics.com. Thank you for your assistance in this matter.

Dan Raver
Safety & Compliance Manager
Dist-Trans Co
1654 Williams Rd
Columbus, Ohio 43207