



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

JAN 17 2002

Mr. Perry Wiltrout
418 West Vine Street
Fleetwood, PA 19522

Ref. No. 02-0016

Dear Mr. Wiltrout:

This is in response to your January 11, 2002 letter and subsequent telephone conversation with a member of my staff requesting clarification of the provisions in § 173.159 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if shipping papers are required for shipments made in compliance with § 173.159(e).

The answer is no. Electric storage batteries meeting the criteria specified in § 173.159(e)(1) through (e)(4) are not subject to the HMR. The batteries must: (1) be the only hazardous material on the vehicle; and (2) be loaded or braced so as to prevent damage and short circuits. In addition, any other material loaded in the vehicle must be blocked and braced to prevent contact with or damage to the batteries and the vehicle may not carry material shipped by any person other than the shipper of the batteries. Therefore, under the scenario you describe, the shipment is not subject to the HMR (including shipping papers).

I hope this satisfies your request.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards

173.159

BAH
 § 173.22
 Shipper's Responsibility

Questions. The company I worked for 19 1/2 years says they have provision and exemptions to who must fill out paper work. I am a truck driver. I took a load of new batteries we filled with electrolyte corrosive battery fluid to their warehouse in FLA. drop the trailer with new batteries. Then hooked up to the trailer that was already loaded with junk batteries that were filled with corrosive fluid to take back to the main factory in PA. We are a private carrier we haul only one product they say. Now I had all the paperwork for the junk batteries. But the warehouse forgot to give me paperwork for a box of wire that approximately weighed 20 pounds that was not a hazardous material. The load of batteries was blocked and braced the batteries were shrink wrapped to pallets. The wire was blocked and braced away from the batteries. Now I looked at 172.200, 173.159(D)(E) 171.8 a, 173.22, 177.817, and Part 172, Subpart C. I can not find anywhere where the driver must fill out all the paperwork for the product and batteries that the driver did not load. Can you show where this provision or exemptions to the rules are? Because the company makes their own product owns the truck and are a private carrier. Do I even need paperwork for the wire? My company is saying because I was working for them that makes me the shipper and it don't matter who loaded the product or batteries. Is this true? Can you show me where this rule is? The name of the company is DEKA BATTERIES East Penn Manufacturing Co. Inc. 1 Deka Road Lyons Station PA. 19536 US DOT 038027 Can you please send a letter in the mail to me and my lawyer what the rules are where is it that the driver for the company must fill out all paperwork for a load he or she did not load. Because they are a private carrier and they only haul their product. Perry Wiltrout 418 W. Vine St. Fleetwood PA. 19522 Karl P. Voigt IV Prince Law Offices, P.C. 646 Lenape Road Bechtelsville, PA. 19505 Also could you E Mail us ? WFEATHER1966@aol.com
 KVoigtIV@Princelaw.com THANK YOU Perry Wiltrout