



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

SEP 12 2011

Mr. Chuck Denny
Duke Energy Corporation
526 South Church Street, EC13K
Charlotte, NC 28202

Ref. No.: 11-0162

Dear Mr. Denny:

This responds to your July 12, 2011 request for clarification and subsequent telephone conversation with a member of my staff on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to a trailer containing six permanently mounted wet electric storage batteries. In addition to the permanently mounted batteries, you seek to transport additional wet electric storage batteries in the same trailer. Specifically, you ask whether you may transport the trailer under the exceptions provided by § 173.159(e).

The answer is yes. The trailer described in your letter containing permanently mounted wet electric storage batteries must be transported in accordance with § 173.159 of the HMR. You may transport additional batteries in the same trailer provided those batteries are also transported in accordance with the applicable requirements of § 173.159. Provided all of the batteries in the trailer meet the requirements of § 173.159(e) including protection from short circuits and damage they would not be subject to any other requirements of the HMR.

I hope this answers your inquiry. If you need additional assistance, please contact the Standards and Rulemaking Division at (202) 366-8553.

Sincerely,

Ben Supko
Acting Chief, Standards Development
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

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From: INFOCNTR (PHMSA)
Sent: Wednesday, July 13, 2011 3:07 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 – 173.476)

11-0162

Hi Carolyn,

We received the following request for a letter of interpretation at the HMIC.

Thanks,
Victoria

-----Original Message-----

From: PHMSA-Feedback [mailto:PHMSA-Feedback]
Sent: Tuesday, July 12, 2011 3:35 PM
To: PHMSA HM InfoCenter; PHMSA Webmaster
Subject: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 – 173.476)

Per my notes, this was submitted for interpretation, but in talking with DOT Helpline last week (~7/6/11), the following did not appear to be in your system for interpretation. Please submit this for a DOT interpretation. Thanks in advance for your guidance.

The following information was submitted on 3/29/11:

We have a trailer (transport vehicle) with half a dozen permanently connected batteries for the purpose of providing backup power while working at a substation. When used this trailer is attached to a utility truck and only transported by highway. This trailer, once at a substation, is connected to the control room in order to provide backup power while used batteries at the substation are replaced. Once substation batteries are replaced, the backup power trailer is disconnected and returned to the crew's home base. The batteries that are connected and used as backup power are an integral part of the trailer and not disconnected unless to replace one of the connected trailer batteries. The batteries are in the front part of the trailer, which is covered and protected by a hard cover lid that is latched to the trailer.

Would the connected batteries that are an integral part of the trailer fall under FMCSR and not fall under DOT HMR requirements? If the connected batteries do not fall under DOT HMR, we would like to also transport batteries that fall under 49 CFR 173.159 (e) in this trailer to and from various work locations, but wanted to make sure that the connected batteries that provide backup power are not considered "other hazardous materials" that would eliminate the usage of 49 CFR 173.159 (e).

On 3/30/11, the submitted question was discussed with DOT Helpline. They have submitted the question for formal interpretation letter. Based on discussion with DOT Helpline, if the batteries are considered an integral part of the transport vehicle, then the batteries in themselves are not being transported as cargo and not under HMR. When asked whether I wanted the questions to be submitted for a formal interpretation, I said yes.

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