



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

SEP 18 2007

Mr. Ray Wirt
American Electric Power
1102 Brandi Drive, SW
Strasburg, OH 44680-9790

Ref. No.: 07-0026

Dear Mr. Wirt:

This is in response to your February 5, 2007 letter regarding the transportation of batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter you describe a scenario where electric storage batteries are transported with other hazardous materials that are used for vehicle maintenance purposes or the safety of the driver. You ask if the presence of these other hazardous materials affects the applicability of the exception in § 173.159(e).

As specified in § 173.159(e), electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the HMR for transportation by highway or rail if all of the following requirements are met: (1) no other hazardous materials may be transported in the same vehicle; (2) the batteries must be loaded or braced so as to prevent damage and short circuits in transit (e.g., by the use of non-conductive caps that entirely cover the terminals); (3) any other material loaded in the same vehicle must be blocked, braced, or otherwise secured to prevent contact with or damage to the batteries; and (4) the transport vehicle may not carry material shipped by any person other than the shipper of the batteries. If the transport vehicle contains any other hazardous materials, even those excepted from all or part of the HMR (e.g., materials of trade; see § 173.6), the exception in § 173.159(e) does not apply. Materials necessary for the safety of the driver or maintenance of the vehicle are not "in commerce" (e.g., fire extinguishers or road flares required under the Federal Motor Carrier Safety Regulations (49 CFR Parts 390-397) and integral safety equipment excepted under § 173.220(e)) and do not effect the applicability of § 173.159(e).

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards



070026

173.159(e)

Pollack
§173.159(e)
Batteries
07-0026



Earnest R Wirt/CA1/AEPIN
02/02/2007 04:26 PM

To dot.comments@dot.gov
cc
bcc

Subject: Question regarding 49 CFR Part 173.159 (e)

Dear Sir or Madam,

I clearly understand that section 173.159(e)(1) ("No other hazardous materials may be transported in the same vehicle;") prohibits transporting any other haz mat on the vehicle in order to take advantage of the exception. However, what I'm unclear on, is does this prohibition also include items such as paint or other materials (deicer, cleaning solvents, lubricants, etc.) in spray cans that are on the vehicle for maintenance purposes for that vehicle alone (i.e. not in commercial transport)?

Thanks for your assistance and have a nice weekend.

 **Ray Wirt**

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