



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

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

JUN 23 2009

Mr. Paul D. Johnson
Director of Environmental Affairs
Kinbursky Brothers Supply Inc.
1314 N. Anaheim Blvd.
Anaheim, CA 92801

Ref. No. 09-0090

Dear Mr. Johnson:

This responds to your April 16, 2009 letter on behalf of Kinsbursky Brothers Inc. (KBI) and Toxco Inc. requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether Special Provision 130 in § 172.102 and § 173.21 apply to the transportation of spent alkaline dry cell batteries.

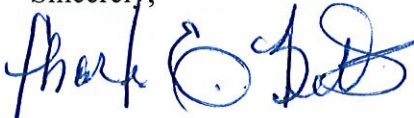
According to your letter, both companies receive, sort, and package spent alkaline dry cell batteries for transportation by highway and/or rail for recycling or disposal. The batteries are identified and sorted so that only the spent 1.5-volt dry cell alkaline batteries are packaged together for transportation. You provide test data to demonstrate that these spent batteries contain very little, if any, energy content and that they are not capable of producing a dangerous evolution of heat during transportation.

Section 173.21(c) prohibits the transportation of electrical devices that are likely to create sparks or generate a dangerous quantity of heat, unless the devices are packaged in a manner that precludes such an occurrence. Special Provision 130 excepts dry batteries not specifically covered by another entry in the Hazardous Materials Table from regulation under the HMR when they are securely packaged and offered for transportation in a manner that prevents a dangerous evolution of heat and protects against short circuits. Based on the test data provided with your letter, it is the opinion of this Office that spent 1.5-volt alkaline dry cell batteries are not likely to generate a dangerous quantity of heat nor are they likely to short circuit or create sparks when they are transported in a packaging with no other battery types or chemistries present. Therefore, when transported by highway or rail and separated

from other types of batteries of different sizes or chemistries, spent 1.5-volt alkaline batteries do not pose an unreasonable risk in transportation and are not subject to regulation under the HMR.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles E. Betts". The signature is stylized and cursive, with a large initial "C" and "B".

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards