



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUN -3 2008

Mr. Dan Lane
Interstate Battery System of America, Inc.
12770 Merit Drive, Suite 1000
Dallas, TX 75251

Ref. No. 08-0067

Dear Mr. Lane:

This responds to your March 6, 2008 letter requesting clarification of the “loaded” or “braced” requirement of § 173.159(e)(2) for the transportation of electric storage batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether our letter dated April 20, 2001 (Ref. no. 01-0054) to Captain Bruce Bugg, of the Georgia Department of Public Safety, supersedes the response given to your company by the Associate Administrator regarding an application for an exemption (now referred to as a special permit) from § 173.159(e) of the HMR.

You provide a copy of the April 20, 2001 interpretation letter, a copy of the Associate Administrator’s response to the application, and copies of the materials originally submitted with the application. The April 20, 2001 letter states that “electric storage batteries resting on a rubber friction mat that are pushed forward so they are against the forward wall of a compartment do not meet the requirements of § 173.159(e)(2) because the batteries are not braced to prohibit lateral or aft shifting.” The letter from the Associate Administrator states that your application was denied as unnecessary based on the conclusion that electric storage batteries loaded and transported in the manner presented in the application meets the requirements of § 173.159(e)(2). And finally, the materials submitted with the application provide information, data, and visual evidence supporting your claim that electric storage batteries loaded without bracing, and transported in specially-designed motor vehicles known as “Mickey Body” trucks, prevents damage and short circuits in transit in conformance with the requirements of § 173.159(e)(2). You indicate that some enforcement officials are asserting that the April 20, 2001 letter renders the letter from the Associate Administrator invalid and thus, are requiring your company to strap (brace) electric storage batteries transported in your specially-designed “Mickey Body” trucks.

The April 20, 2001 interpretation letter does not supersede nor affect the response your company received from the Associate Administrator concerning your application for a special permit. Interpretations do not create legally-enforceable rights or obligations but are provided to help the public understand how to comply with the HMR. Based on a review of the materials you provided, this Office agrees with the original response from the Associate Administrator that electric storage batteries loaded and transported in “Mickey Body” trucks as described in the application achieves the performance standards of § 173.159(e)(2). According to your

application, a Mickey Body truck is designed so that shelves in the compartments of a truck slope downward from the exterior toward the interior of the vehicle and the shelves are covered with a slip-resistant surface. Additionally, when loaded, the majority of the batteries are wrapped in plastic; the batteries are placed tightly to the front and interior of each compartment that is less-than-full; and the batteries are not stacked. If your company or another company transports batteries as described, then the batteries do not need to be braced. However, if evidence indicates batteries transported using this loading method and truck design are damaged or short circuited while in transport, then the performance standards of § 173.159(e)(2) are not achieved and the batteries must be loaded differently or braced in a manner to prevent damage or short circuiting while in transit.

Our letter of April 20, 2001 to Captain Bruce Bugg failed to fully consider the information provided by your original application for a special permit relative to the questions posed. Confusion may arise due to the similarity of the loading method described by Captain Bugg and the loading method used by your company. It is the opinion of this Office that, as was posed by Captain Bugg, placing electric storage batteries in a less-than-full compartment with a slip-resistant surface or pushing the batteries against the forward wall in combination with a slip-resistant surface by itself may not be sufficient to achieve the performance standards of § 173.159(e)(2). These batteries may need to be loaded differently or braced to meet the requirements of § 173.159(e)(2). However, loading electric storage batteries in a "Mickey Body" truck as described above differs in that, for example, shelving in the compartments of the truck slopes downward to the interior of the compartment to provide further resistance against shifting or jostling of the batteries that could cause damage or short circuiting. Additionally, information provided by your company as well as a number of other companies that distribute electric storage batteries indicates the widespread and historical use of this loading method and truck design without incidence of damage or short circuiting while in transit. Therefore, it is the opinion of this Office that this loading method and truck design sufficiently provides for achievement of the performance standards without having to brace the batteries. We will address the discrepancy between the Associate Administrator's letter and the letter to Captain Bugg by rescinding the April 20, 2001 letter and issuing a new letter to Captain Bugg noting that electric storage batteries loaded in a "Mickey Body" truck as described in your application is a method of achieving the performance standard of § 173.159(e)(2).

I have enclosed a copy of correspondence with Captain Bruce Bugg of the Georgia Department of Public Safety related to this issue. If we can be of further assistance, please contact us.

Sincerely,


Edward T. Mazzullo

Director

Office of Hazardous Materials Standards

cc:

Charles A. Key
Auto Supply Company, Inc.

Randy Clark
Tri-State Battery Supply, Inc.

Arthur Calhoun
Central Georgia Battery Co.

Rodney Burns
Continental Battery Company

Carolina L. Mederos
Patton Boggs LLP

Enclosure:

Letter of Interpretation 01-0054



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

JUN - 3 2008

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

Captain Bruce Bugg
Motor Carrier Compliance Division
Georgia Department of Public Safety
PO Box 1456
Atlanta, GA 30371

Ref. No. 01-0054

Dear Captain Bugg:

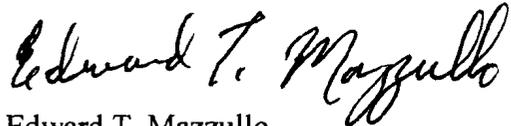
This letter serves as a rescission of our April 20, 2001 letter responding to your request for clarification of requirements for the transportation of batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked if electric storage batteries resting on a rubber friction mat and pushed against the forward wall of a compartment meets the requirements of § 173.159(e)(2). Upon further review, we find our previous response to your question to be incomplete. Your question is answered below. We apologize for any inconvenience this may have caused.

Electric storage batteries must be loaded or braced in order to prevent damage and short-circuits in transit. It is the opinion of this Office that placing electric storage batteries on a slip-resistant surface such as a rubber friction mat and pushing the batteries against the forward wall of a less-than-full compartment may not by itself be sufficient to achieve the performance standards of § 173.159(e)(2) and therefore, the batteries may have to be loaded differently or braced in a manner to achieve the standard. However, loading and transporting the batteries without bracing using a method that includes placing the batteries on a slip-resistant surface and pushing the batteries against the forward wall may be sufficient. For example, a number of distributors of electric storage batteries use a method of loading batteries in a specially-designed "Mickey Body" truck that incorporates the use of a slip-resistant surface and tightly loaded batteries pushed toward the forward and interior walls of a less-than-full compartment in combination with shelves in compartments that slope downward to the interior of the compartment. This method of loading and transport has had widespread and historical use without incidence of damage or short circuiting while in transit. This information is described in greater detail in our enclosed letter to Mr. Dan Lane of the Interstate Battery System of America, Inc. (Ref. no. 08-0067). If a company transports the electric storage batteries as described in the enclosed letter, then the batteries do not need to be braced. However, if evidence indicates batteries transported using this loading method and truck design are damaged or short circuited while in transport, then the performance standards of § 173.159(e)(2) are not achieved. This does not necessarily mean the batteries

must then be braced but rather that the batteries must be loaded differently or braced in a manner to prevent damage or short circuiting while in transit.

I have enclosed a copy of prior correspondence with Mr. Dan Lane of Interstate Battery System of America, Inc. related to this issue. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Edward T. Mazzullo".

Edward T. Mazzullo
Director
Office of Hazardous Materials Standards

Enclosure:

Letter of Interpretation 08-0067



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

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

APR 20 2001

Captain Bruce Bugg
Hazardous Materials Specialist
Georgia Public Service Commission
244 Washington Street SW
Atlanta, GA 30354

Ref. No. 01-0054

Dear Captain Bugg:

This responds to your February 13, 2001 letter requesting clarification of requirements for the transportation of batteries under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask if batteries resting on a rubber friction mat that are pushed forward so they are against the forward wall of a compartment meet the requirements of § 173.159(e)(2).

The answer is no. Batteries must be loaded or braced in order to prevent damage and short-circuits during transit. Batteries that are simply resting on a rubber friction mat and pushed forward so they are against the forward wall of a compartment are not braced to prohibit lateral or aft movement.

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

Sincerely,

John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



01-0054

173.159



Der Kinderen
§173.159 (e) (2)
Batteries
08-0067

March 6, 2008

Mr. Ed Mazzullo
Director of the Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration (PHMSA)
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Mr. Mazzullo:

This letter is to request a clarification of the “loaded or braced” requirement of 49 CFR 173.159(e) (2) pertaining to the transportation of electric storage batteries.

On June 2, 1995 (Docket 11501-N) our company, Interstate Battery System of America, Inc., submitted an Application for Exemption to ship electric storage batteries without bracing in specially-designed vehicles equipped with “Mickey Bodies” Our application described how the Mickey Body prevents damage and short circuits, even in compartments that are less than fully loaded. We provided photographs, drawings, technical data, and a video tape. We met with officials of the Office of Hazardous Materials in Washington, DC to present the information in the fall of 1995, (Our Application for Exemption and supporting information appears at Attachment 1.)

On April 4, 1996, the Associate Administrator for Hazardous Materials Safety responded that our vehicle loading configuration, in fact, met the requirements of 49 CFR 173.159 (e) (2) without bracing—including in less-than-full compartments – and so an exemption was unnecessary. (The Associate Administrator’s letter appears at Attachment 2.)

On February 13, 2001, a Hazardous Materials Specialist with the Georgia Public Service Commission wrote to the Office of Hazardous Materials Standards inquiring as to “whether a less-than-full compartment of batteries in which the only load securement device is a friction mat” and “whether moving all the remaining batteries in the compartment forward” (the Mickey Body configuration) meets the requirements of 49 CFR 173 (e). On April 20, 2001 a Transportation Regulations Specialist with the Office of Hazardous Materials Standards responded that “batteries resting on a friction mat that are pushed forward” do not meet the requirements of 49 CFR 173 (e)(2) because they are not braced. The April 20, 2001 letter is posted on the PHMSA web site as interpretation #01-0054. (Both letters appear as Attachment 3.)

The design of our battery trucks is very safe, as demonstrated by the data we submitted in support of our Application for Exemption and the Associate Administrator’s response. The design has not changed and all the data that we submitted in support of our 1995 application remains valid. We have used this design for the last 25 years to transport more than 100 million automotive batteries. We have never had a broken battery or a battery short circuit while in transit. In 2007, Interstate Battery System used

approximately 1,000 of these special design vehicles to deliver approximately 15 million vehicle batteries to some 200,000 locations in all 50 states. Over one-third of the battery delivery trucks in the U.S. today have this same, or a very similar, design including trucks operated by Delco, Continental Battery, Centennial Battery, and Deka Battery.

However, our vehicles and drivers continue to be detained by state and local transportation officers, particularly in New York, Texas, California, Virginia, and Georgia. We have been fined and required to strap our batteries, even though our vehicles are specifically designed and built to prevent damage and short circuiting without strapping. We submitted the Application for Exemption because we were getting questions about our trucks from state and local officers and our drivers have carried the Associate Administrator's letter since it was issued in 1996. Since the posting of the 2001 letter on the PHMSA web site, some state and local officers have asserted that the Associate Administrator's letter is invalid.

Neither the regulation nor the facts have changed since the issuance of the Associate Administrator's letter. Therefore, Interstate Battery believes the 1996 determination is still valid. Unlike the Associate Administrator's letter, which was issued in response to detailed technical and safety data, we believe the 2001 letter was issued in response to a narrow question and without the benefit of complete information. However, the publication of that letter as a PMHSA Interpretation has led some state and local enforcement officials to conclude that the Associate Administrator's letter is no longer in effect.

We have an outstanding safety record. It is in our business interest to deliver batteries safely and without incident. We have gone to considerable expense to design and build vehicles that provide what we believe to be the safest configuration to prevent damage and short circuits. We strongly support aggressive safety enforcement. However, because we believe that the 2001 letter is being incorrectly interpreted in relation to the 1996 letter, causing delays in product delivery and substantial loss of person hours by our drivers and other personnel in subsequent state and local enforcement proceedings, we are requesting a clarification.

We appreciate your review of this matter. We are prepared to come to Washington to meet with you and to show you one of our Mickey Body vehicles. Thank you for your consideration.

Sincerely yours,



Dan Lane
Supply Chain Management Department
Interstate Battery System of America, Inc.

1-800-541-8419, Ext. 6672.

Dan.Lane@ibsa.com

ATTACHMENT 1

11501-✓
IDA# 25389



June 2, 1995

Associate Administrator for
Hazardous Materials Safety
U.S. Department of Transportation
Washington, DC 20590-0001

ATTENTION: EXEMPTIONS BRANCH

Dear Associate Administrator:

Enclosed herewith you will find an Application for Exemption in triplicate of Interstate Battery System of America, Inc. for an exemption from hazardous materials transportation regulation 49 C.F.R. 173.159(e), one copy of this transmittal letter and my self-addressed, stamped envelope. This Application for Exemption is submitted pursuant to 49 C.F.R. 107.103.

Please acknowledge receipt and filing of the Application by file marking the copy of this transmittal letter, and returning it to me in the self-addressed, stamped envelope.

Yours very truly,

**INTERSTATE BATTERY SYSTEM
OF AMERICA, INC.**

Walter C. Holmes, III
Attorney

WCH/bc

Enclosure

cc: Senator Kay Bailey Hutchison
Attn: Joyce - 961 Federal Building
300 E. 8th Street
Austin, TX 78701

60:2 HJ 6--JUN 95
EXEMPTIONS & APPROVALS
DOT/RSPA/AHMS

E -11501

**APPLICATION OF INTERSTATE BATTERY SYSTEM OF AMERICA, INC.
FOR EXEMPTION FROM HAZARDOUS MATERIALS
TRANSPORTATION REGULATION 173.159(e)**

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION**

**APPLICATION OF INTERSTATE BATTERY SYSTEM OF AMERICA, INC.
FOR EXEMPTION FROM HAZARDOUS MATERIALS
TRANSPORTATION REGULATION 173.159(e)**

COMES NOW Interstate Battery System of America, Inc. (herein referred to as "Interstate") and makes this application to the Associate Administrator for Hazardous Materials Safety under its Research and Special Programs Administration ("RSPA") for an exemption under 49 C.F.R. §173.159(e) (hereinafter "173.159(e)" or "Section 173.159(e)"), pursuant to 49 C.F.R. §107.103 (hereinafter, the "Application"). In support of its Application, Interstate respectfully shows as follows:

I.

Interstate is a Delaware corporation which has its corporate headquarters at 12770 Merit Drive, Suite 400, Dallas, Texas 75251. The telephone number to Interstate's corporate headquarters is (214) 991-1444. Interstate and a related entity operating under the "Interstate" name operate 22 battery distributorships in the United States and Canada. In addition, there are approximately 350 independent distributors supplying Interstate batteries to various points of sale. These independent distributorships are located in the United States, Canada and Puerto Rico. Obviously, critical to the business of Interstate and its independent distributors is the transportation of batteries to its more than 200,000 points of sale locations. These points of sale locations are known as "Dealers." Since 1985, the primary vehicle used by Interstate and its independent distributors for the transportation of these batteries is the "Mickey Body" truck. More detailed information about the Mickey Body truck, its design, testing and historical accident experience will be set forth in the sections that follow in this Application.

II.

Hazardous materials transportation regulation 173.159(e) states:

(e) Electric storage batteries containing electrolyte or corrosive battery fluid are not subject to the requirements of this subchapter 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;**
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.

Interstate believes batteries loaded into the compartments within the Mickey Body trucks are "loaded . . . so as to prevent damage and short circuits in transit." To date however, the Department of Transportation ("DOT") has construed Section 173.159(e) to require that the batteries be "loaded and braced." Assuming Section 173.159(e) does, in fact, require "loading and bracing," Interstate applies for an exemption to this regulation in consideration of the burdens placed upon Interstate and its independent distributors when viewed in light of, one, the apparent purpose of the regulation; two, the design of the Mickey Body truck; and three, Interstate's experience with the Mickey Body truck.

III.

PROPOSAL Interstate proposes that the RSPA grant Interstate an exemption from the DOT's present interpretation of Section 173.159(e). The proposed exemption would only apply to Interstate, Interstate's affiliated entities, and Interstate's independent distributors utilizing the Mickey Body truck for the transportation of batteries. Further, the proposed exemption would only apply in the event the batteries transported in the Mickey Body truck are loaded within the "compartments" of the truck and the compartment(s) sealed. The Mickey Body design is explained in more detail below.

PURPOSE

The Mickey Body truck was designed through the coordinated efforts of Interstate and Johnson Controls, Inc. with the specific purpose of promoting the safe transport of batteries. Consideration was given not only to a design that would prevent damage to the product during transport (thus protecting the environment and public as well as reducing expenses for damaged product), but also to the feasibility of any design from a labor standpoint (time and burden on individuals loading and unloading batteries).

PRINCIPAL OF OPERATION

The Mickey Body trucks utilized by Interstate and its distributors are basically two axle trucks with a uniquely designed cargo carrying hull or shell. This shell is designed with various compartments into which batteries are loaded for transport. The compartments are arranged primarily in a vertical fashion, with one or more "columns" of vertical compartments being sealed by a door that slides up and down. The largest of the compartments measures approximately 3 feet in length by 3 feet in depth. The compartments themselves have a gradual slant going upward from the inside to outside of the truck. On the bottom of each compartment is a polyurethane covering which creates a coarse surface. Further, each battery is, in the vast majority of cases, individually wrapped in plastic and "shrink-wrapped" on the bottom. The sloping and polyurethane/plastic combination work together to essentially eliminate movement (side to side) of batteries during transit. The batteries are not stacked on top of one another in the compartments. Photographs of the compartments are attached as Exhibit A.

There are basically six "models" of Mickey Body trucks utilized by Interstate and its distributors. However, the only difference is the capacity of each of the models. The layout of each of the trucks is as set forth above. The smallest truck will hold up to 125 batteries, whereas the largest truck will hold approximately 400 batteries. A diagram of both the "8-bay" and the "6-bay" designs have been attached to this Application as Exhibit B. Also included as part of Exhibit B are photographs of the Mickey Body trucks.

The Mickey Body truck is critical to the operation of the Interstate distributorships. Batteries are supplied to the various distributorships, with these batteries eventually transported to Dealers. To get the batteries to the Dealers, the batteries are loaded in the vast majority of cases into a Mickey Body truck, and the loaded truck is then driven to the Dealers along a predetermined route by what is known as a "Route

Manager." The batteries are loaded so that one compartment is fully loaded before another battery is placed into another compartment. Accordingly, there is generally no more than one compartment on any Mickey Body truck with less than a "full" load. In those compartments that are fully loaded, there is virtually no movement of the batteries within that compartment as there is no room for any such movement. In those compartments that are less than full, even with the assumption of only one battery in the compartment, there is virtually no movement during normal transit due to those design features of the compartments as explained above. Moreover, in those compartments that are less than full, the batteries are loaded to the front and inside of each compartment which also reduces or eliminates any movement. Further, to the extent there may be some inconsequential movement, this "movement" does not cause damage or short-circuiting.

A Route Manager will make roughly 30 Dealer stops per day. The batteries are unloaded from the compartments and placed on "racks" at a Dealer's place of business. On occasion, used or "junk" batteries are given to the Route Manager by the Dealer for disposal. The junk batteries are then loaded back into the compartments in the same manner in which the "new" batteries are loaded at the beginning of the route. The junk batteries are then transported back to the distributorship where they can be disposed of in an EPA-approved manner.

TESTING AND HISTORICAL EXPERIENCE

Testing of the batteries was performed by engineers and other representatives of Johnson Controls, Inc. at the direction of Interstate. The parameters of the testing were established with the special design features of the Mickey Body trucks in mind. According to the results of the testing, damage did not occur to any battery until a force in excess of 30% of that which could be expected was achieved. It must also be noted that this testing was done at temperatures of zero degrees Fahrenheit (more extreme and detrimental than what could be normally anticipated in transit). Also, in the derivation of the force that could be expected to be exerted upon a single battery in a compartment sliding from wall to wall, no consideration was given to the slope and friction factors existing within a compartment (i.e., the estimated 60 foot-pound force is much higher than the actual force which could be expected to be placed upon a single battery loaded within a compartment). Information related to this testing has been attached to this Application as Exhibit C.

Probably more significant than the testing performed is Interstate's historical experience with the transportation of batteries in the Mickey Body trucks. Estimating that there have been 600 Mickey Body trucks on average in use per year since the inception of the Mickey Body design in 1985 (a very conservative estimate) and approximating that 250 batteries are in transit on a daily basis in each Mickey Body truck, there have been roughly 150,000 batteries in transit per day since 1985 in these trucks. Utilizing this figure, there have probably been in excess of three billion batteries in transit in the Mickey Body compartments. Interstate is unaware of any units that were in a good condition when placed into the compartments that were in a damaged condition when unloaded at a Dealer location. Interstate is also aware of several vehicular accidents involving the Mickey Body trucks. Interstate is unaware of any "preventable" damage occurring to any units as a result of any of the accidents.

One such accident occurred July 31, 1992, and involved a Mickey Body truck operating out of the Houston, Texas distributorship, owned and operated by Interstate. The capacity of that particular Mickey Body truck was approximately 350 batteries. At the time of the accident, that truck was transporting approximately 225 units. The truck and the engine were totaled. The "Mickey Body" on the truck had to be sold for scrap. Despite the severity of the accident, there were no broken batteries resulting from this accident. The officers at the scene observed no leaking acid and ordered no acid clean up. Multiple copies of color photographs demonstrating the nature of this accident are attached to this application as Exhibit D.

Another accident occurred June 15, 1994. The Mickey Body truck involved was operated by Interstate out of its own Dallas distributorship. The truck was carrying approximately 125 batteries when it was rear-ended by another truck. The back of the Mickey Body truck as well as the compartments on the truck were damaged. Yet, the batteries contained within the compartments were not damaged and showed no signs of movement.

Another accident also involving a Mickey Body truck operating out of the Dallas distributorship occurred December 12, 1994. This accident involved five vehicles, including other trucks. The Interstate Mickey Body truck was one of the middle vehicles. The truck itself was totaled and the Mickey Body "shell" was damaged so extensively that it was sold for scrap metal. In fact, a portion of the body itself was ripped off of the truck. Additionally, several of the compartments were damaged in such a fashion that the

design configurations were distorted. Nevertheless, only ten out of the roughly 125 batteries in transit were damaged. The damage to the ten batteries resulted in minimal acid leaking with a very small portion of that acid making it outside of the truck on to the pavement. The damage occurring in this accident was of such a nature that the damage would almost certainly have occurred regardless of any "strapping" of the batteries within the damaged compartments.

A number of smaller "fender bender" type accidents also have occurred in the Mickey Body trucks all across the United States. The results have all been consistent: minor damage to the truck, and occasionally, minor damage to the Mickey Body shell itself, with no resulting damage to any of the batteries contained within the Mickey Body compartments. Interstate is not representing that it has discovered each and every accident that might have occurred since 1985 involving Mickey Body truck, but Interstate is confident in its position that the Mickey Body truck design minimizes to the point of elimination damage to the batteries transported therein. This design certainly works, as well as any "non-Mickey style bodied truck" containing "straps".

IV.

Interstate estimates that it will cost approximately \$250 for material and labor to "strap" the compartments within a single Mickey Body truck. The more significant expenditure, however, comes from a loss of use of a truck while the "strapping" installation process is taking place, and further, from the additional labor costs incurred as a result of the strapping within the Mickey Body compartments. Using the 30-Dealer stop average discussed in paragraph III, and conservatively estimating that at least an additional 30 seconds per stop will be necessary to latch and unlatch the straps within a compartment, an additional 15 minutes per day per truck will be required. Considering that there are 678 Mickey Body trucks presently in use within the Interstate "system," the system will incur approximately 170 additional hours of labor expense per day due to the strapping and unstrapping process. Translating that labor cost to a yearly figure, it is apparent that the burdens imposed by the strapping are quite extensive.

V.

Interstate firmly believes that the Mickey Body design comports with the intention of Section 173.159(e) in that this design prevents movement which would cause damage

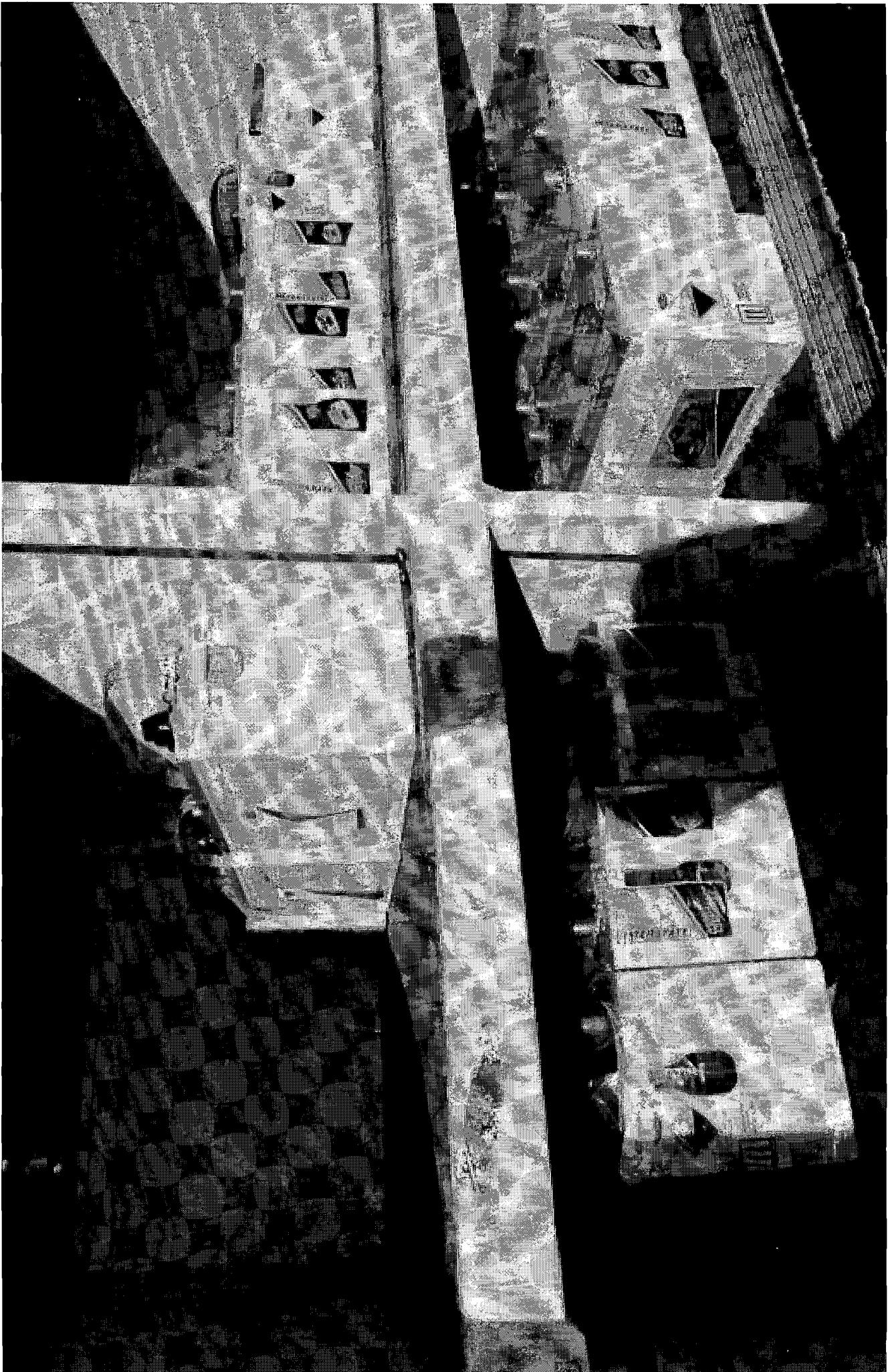
or short-circuiting to the batteries during transit. Testing results and Interstate's historical experience substantiate Interstate's belief. Thus, Interstate believes that the transportation of its batteries in the Mickey Body trucks without any strapping is consistent with the public interest and adequately protects against risk to life and property which are inherent in the transportation of hazardous materials in commerce. Accordingly, Interstate seeks an exemption from Section 173.159(e) for the transportation of batteries in its Mickey Body design of truck, and that such exemption be effective at the earliest possible date.

WHEREFORE, PREMISES CONSIDERED, Interstate Battery System of America, Inc. prays that its Application for Exemption be granted.

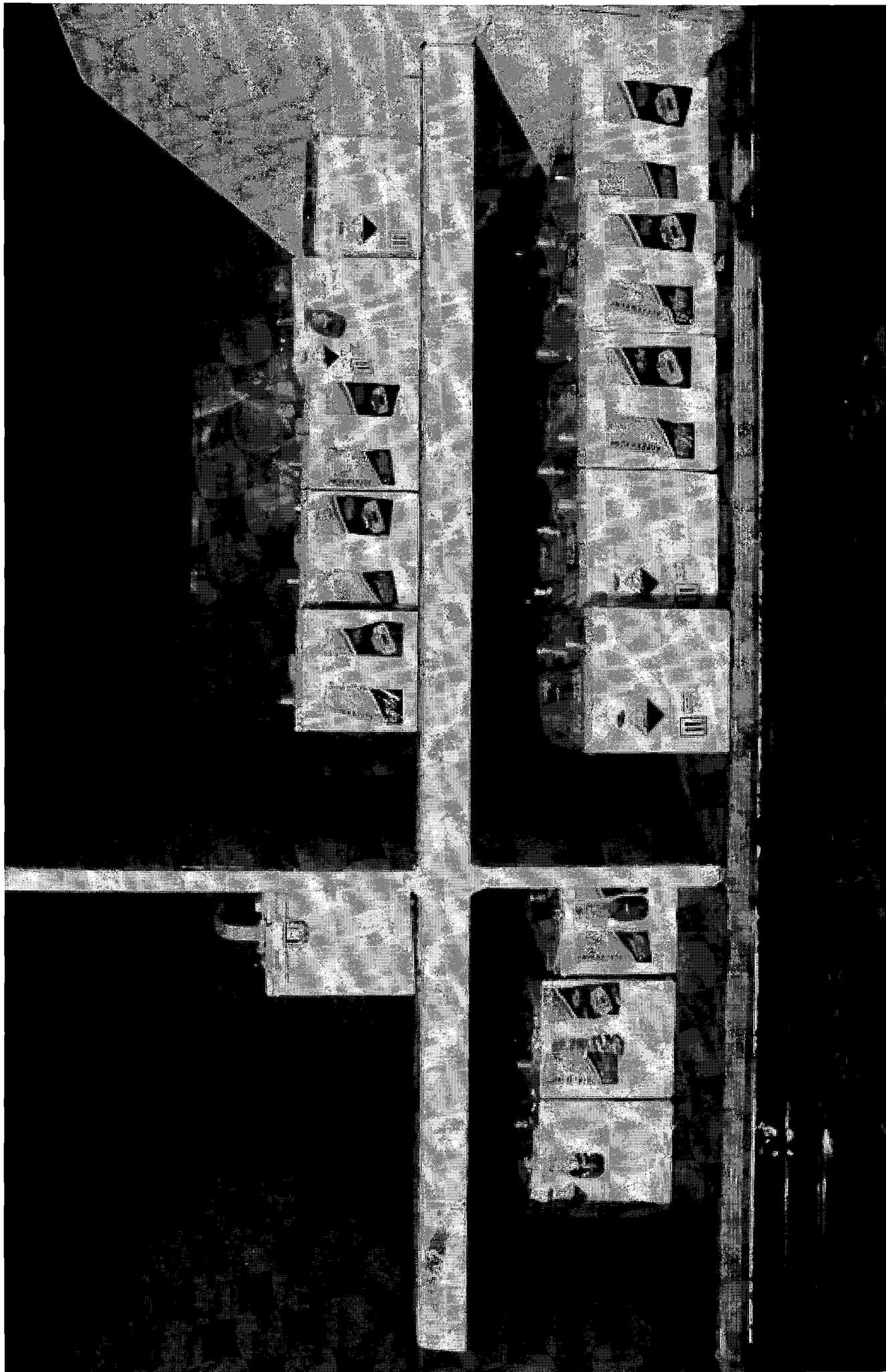
Respectfully submitted,

Interstate Battery System of America, Inc.
12770 Merit Drive, Suite 400
Dallas, Texas 75251

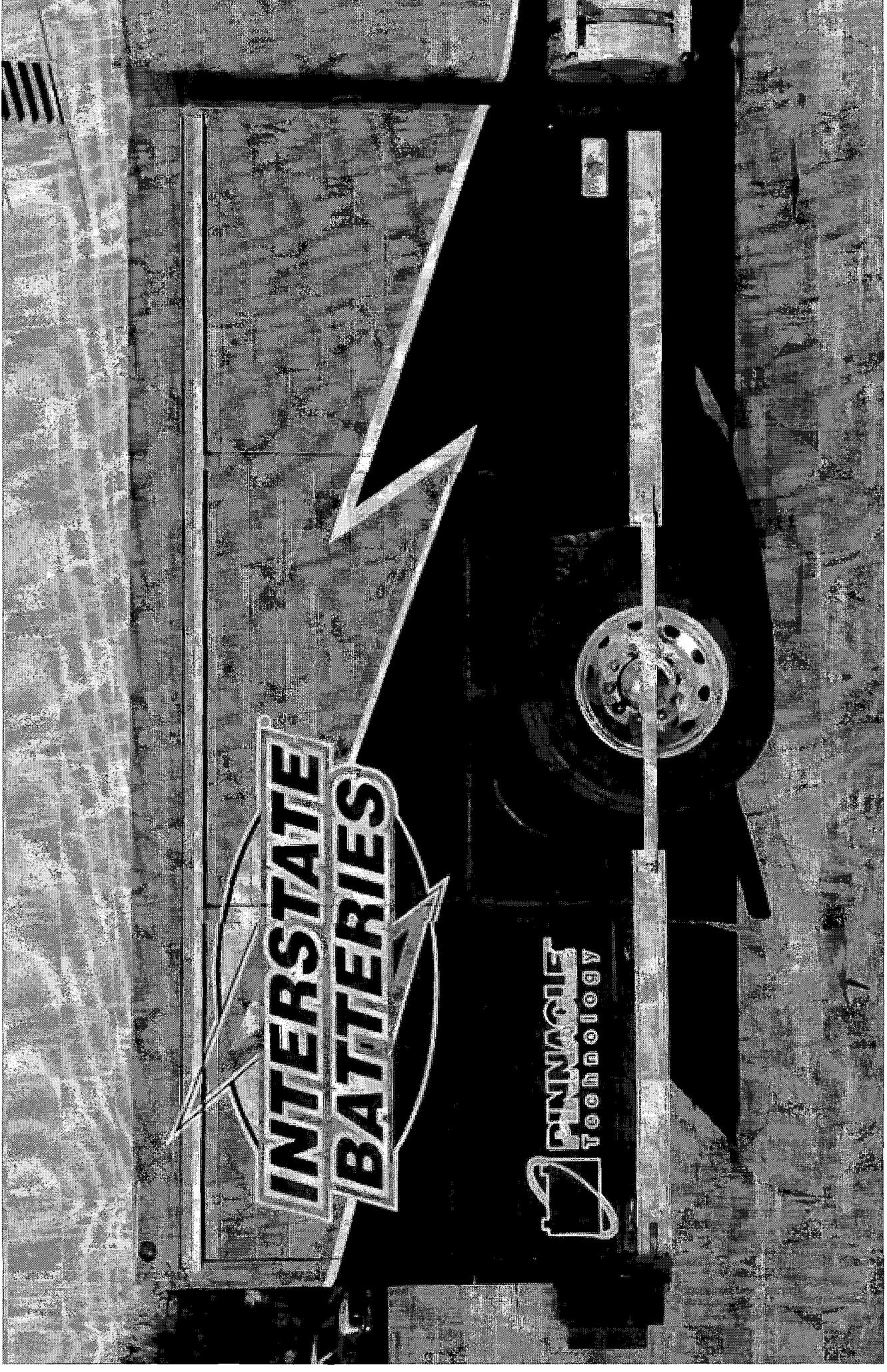
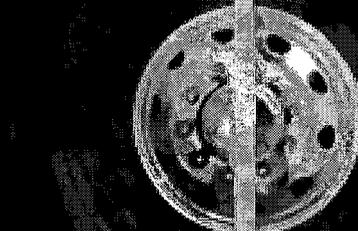
By: Walter C. Holmes III
Walter C. Holmes, III
Texas Bar No. 09908493

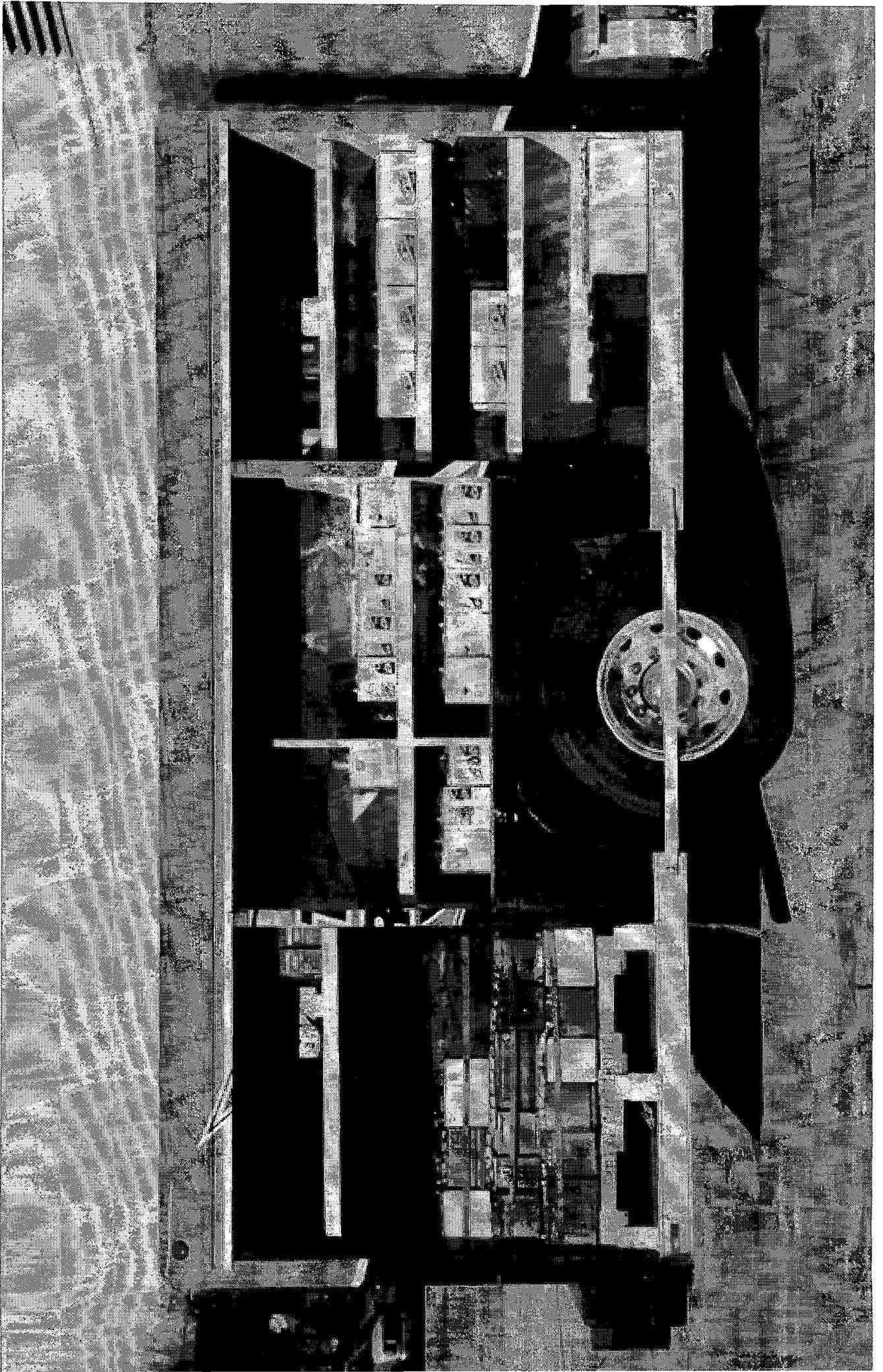


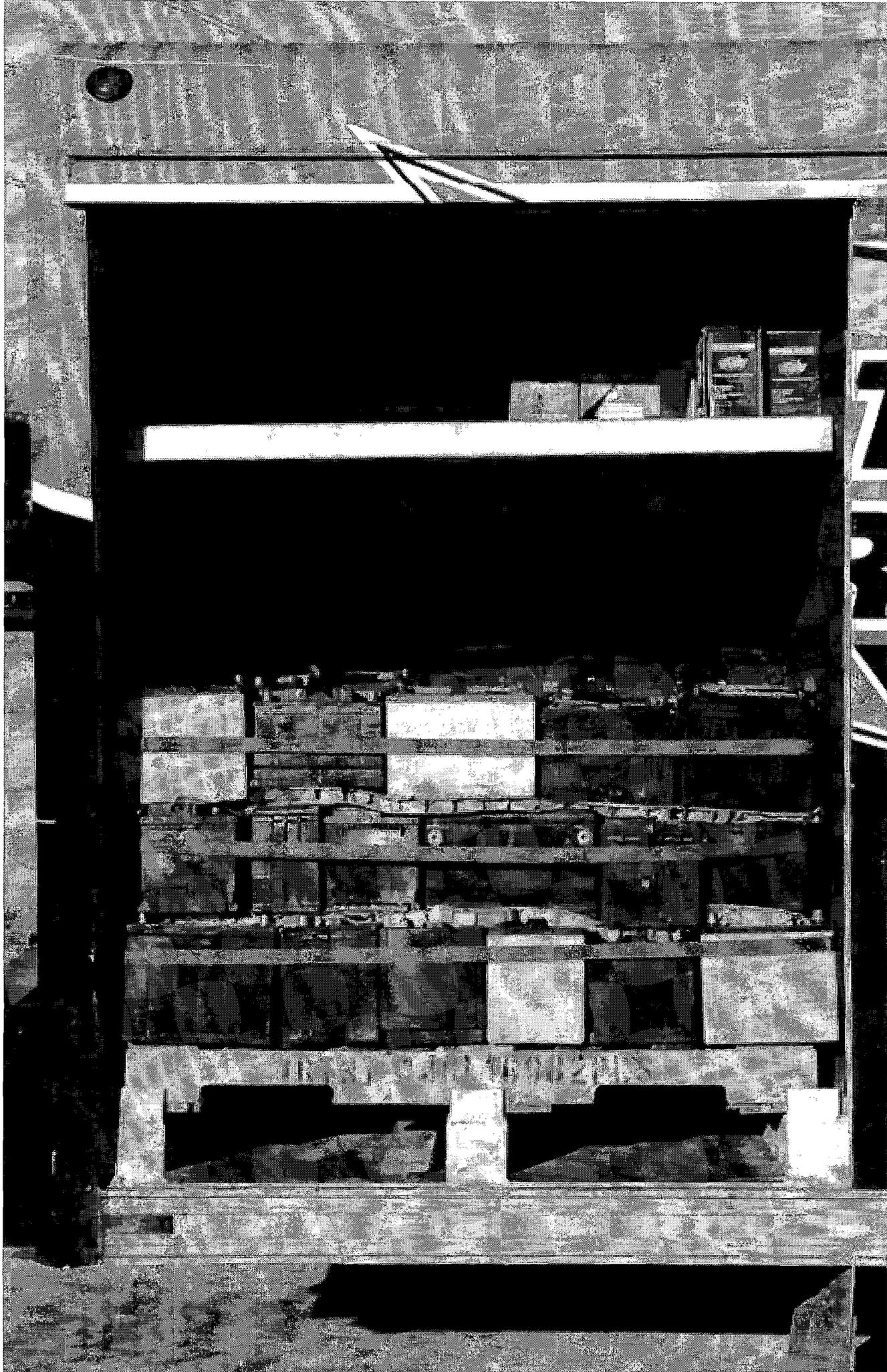




INTERSTATE BATTERIES







JOHNSON
CONTROLS

Mr. Lanny Yoder
IBSA
9304 Forest Lane
Suite 200
Dallas, TX 75243

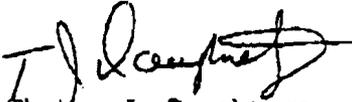
May 24, 1988

Dear Lanny:

We have completed our 0° F testing of corner impact on Interstate batteries. (See enclosed data) Based on our findings, an Interstate battery will meet the 60 ft-lb force the battery would see if a truck having a 3' x 3' compartment had an emergency stop, and the battery slid from side of the compartment to the opposite side. Product failure occurred at 80ft-lbs, 30% over the maximum force we calculated to impact at when hitting the wall of the compartment. (We do have a video of this testing.)

Sincerely,

JOHNSON CONTROLS, INC.



Thomas J. Dougherty
Manager, Product Innovation
Battery Engineering

TJD/ale

Enclosure

Batteries Filled with 50%EG/ %F

29.7 lb Hammer with 20 inch shaft swung to the deflections indicated.

BATTERY #	IMPACT SIDE	DEFLECTION (INCHES)	FORCE (Ft-lb)	RESULTS--COMMENTS
1	Corner 1	#1 25	62	--- Slight Evidence of Cover Stressing
		#2 29	72	
1	Corner 3	31	77	No Visible Effect
2	Corner 1	31	77	No Visible Effect
2	Corner 3	#1 31	77	No Visible Effect
		#2 36	89	No Visible Effect
3	Corner 1	30	75	No Visible Effect
3	Corner 3	33	82*	Cracked Vertically at Corner, a hole about the size of a nickel formed on the bottom and electrolyte emptied out.
4	Corner 1	30	75	No Visible Effect
	Corner 3	30	75	No Visible Effect

** :Force may have been slightly higher than indicated due to additional force applied by the operator during the hammer swing.

20

ATTACHMENT 2



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

APR 4 1996

Mr. Walter C. Holmes
Attorney
Interstate Battery System of America, Inc.
12770 Merit Drive, Suite 400
Dallas, Texas 75251

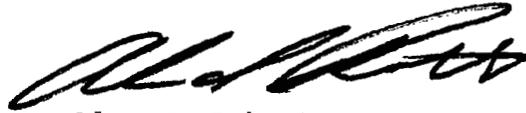
Dear Mr. Holmes:

This is in response to your application for an exemption (Docket 11501-N) dated June 2, 1995, requesting authorization to ship electric storage batteries without bracing in specially designed vehicles equipped with "Mickey Bodies". In accordance with 49 CFR § 107.109(c), your application is denied as being unnecessary for the following reasons:

Section 173.159(e)(2) requires that "The batteries must be loaded or braced so as to prevent damage and short circuits in transit." Your application states that loading in the Mickey Bodies does prevent damage and short circuits and therefore bracing is unnecessary. You also stated that: (1) the shelves in your Mickey Bodies slope downward to the center line of the vehicle; (2) the shelves are covered with a friction surface; (3) the batteries are tightly loaded to the front and inside of each vehicle compartment which is less than full; and (4) the batteries are not double stacked. Your application further states that you tested these design features and operational controls and that, although they allow some inconsequential movement, these features and operational controls prevent damage and short-circuiting. Accordingly, your

application demonstrates that your vehicles, when fabricated and operated as specified in your application, meet the requirements of Section 173.159 (e) (2).

Sincerely,

A handwritten signature in black ink, appearing to read "Alan I. Roberts", written in a cursive style.

Alan I. Roberts
Associate Administrator for
Hazardous Materials Safety

ATTACHMENT 3

ERS:

BBA* McDONALD, JR., CHAIRMAN
JAKER, JR.
JRGESS
EN
E



Nelson
§173.159(e)
Batteries
01-0054

DEBORAH K. FLANNAGAN
EXECUTIVE DIRECTOR

AL HATCHER
DIRECTOR, TRANSPORTATION DIVISION
(404)559-6600

Georgia Public Service Commission

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30354-5701
(404) 656-4501 or 1-800-282-5813
<http://www.psc.state.ga.us>

February 13, 2001

Mr. Edward Mazzullo
U.S. DOT - RSPA - DHM-10
Office of Hazardous Materials Standards
400 Seventh Street, SW
Washington, DC 20590-0001

Dear Sir:

Enclosed are photographs of a truck inspected by one of our Enforcement Officers. This vehicle transports both new and used batteries that contain acid electrolyte. The vehicle has roll-up doors on both sides with shelving for the batteries. The shelving has a rubber (or similar material) mat that the batteries rest on.

The carrier asserts that simply pushing the batteries forward, so that they are against the forward wall of the compartment, satisfies the requirements of §173.159(e), even if a gap remains to the rear. 

Our agency has long held that to meet the requirements of 49 CFR §173.159(e), the batteries must be positively restrained against motion in some manner, such as:

- (1) A shelf contains a full load of batteries; or,
- (2) Shelves without a full load have a positive restraint device, such as a strap that runs around the batteries, a cargo net over the batteries, or a load restraint bar.

We would appreciate your judgment as to (1) whether a less-than-full compartment of batteries, in which the only load securement device is a friction mat, meets the requirements of 49 CFR §173.159(e), and (2) whether moving all remaining batteries in the compartment forward meets the requirements of 49 CFR §173.159(e). If you need more information, please contact me at 404-559-6627 or by e-mail at: bruceb@psc.state.ga.us.

Sincerely,

GEORGIA PUBLIC SERVICE COMMISSION

Captain Bruce Bugg
Hazardous Materials Specialist.

Enclosures

Drakeford, Carolyn <PHMSA>

From: Mederos, Carolina [CMederos@PattonBoggs.com]
Sent: Friday, March 07, 2008 1:30 PM
To: Mazzullo, Ed <PHMSA>
Subject: Interstate Battery System Letter and Attachments
Attachments: Interstate Battery System.pdf

Hi Ed

It was very nice talking with you the other day. I'm glad you're doing well. The Interstate Battery System package is attached. I will send you the video in a separate email momentarily. As you can see from the pictures in this package, the new batteries are contained through the Mickey Body configuration, but the used batteries are strapped. The Interstate Battery folks are happy to come to Washington to discuss this and answer any questions. Please let me know how you want to proceed.

Thanks,
Carolina

Carolina L. Mederos
Patton Boggs LLP
2550 M Street NW
Washington, DC 20037
(202) 457-5653 -- (Direct)
(202) 457-6315 -- (Fax)
(202) 744-5449 -- (Mobile)
cmederos@pattonboggs.com
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Drakeford, Carolyn <PHMSA>

From: Mederos, Carolina [CMederos@PattonBoggs.com]
Sent: Friday, March 07, 2008 2:46 PM
To: Mazzullo, Ed <PHMSA>
Subject: Interstate Battery System Drawings

Follow Up Flag: Follow up
Flag Status: Red

Attachments: Interstate Battery System Drawings.pdf



Interstate Battery
System Draw...

Ed

These drawings are part of Attachment 1. Sorry for sending you this is pieces.
Thanks,
Carolina

> <<Interstate Battery System Drawings.pdf>>
Carolina L. Mederos
Patton Boggs LLP
2550 M Street NW
Washington, DC 20037
(202) 457-5653 -- (Direct)
(202) 457-6315 -- (Fax)
(202) 744-5449 -- (Mobile)
cmederos@pattonboggs.com
www.pattonboggs.com

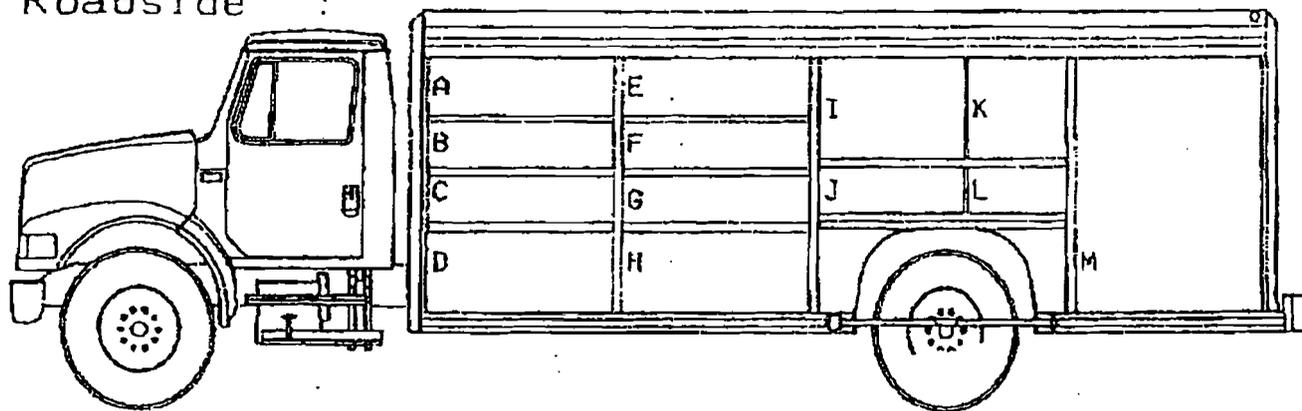
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BEGINNING LOAD

Roadside



total weight per bin	total weight per bin	total weight per bin	total weight per bin
3,382	2,700	1,928	-0-

PAYLOAD:

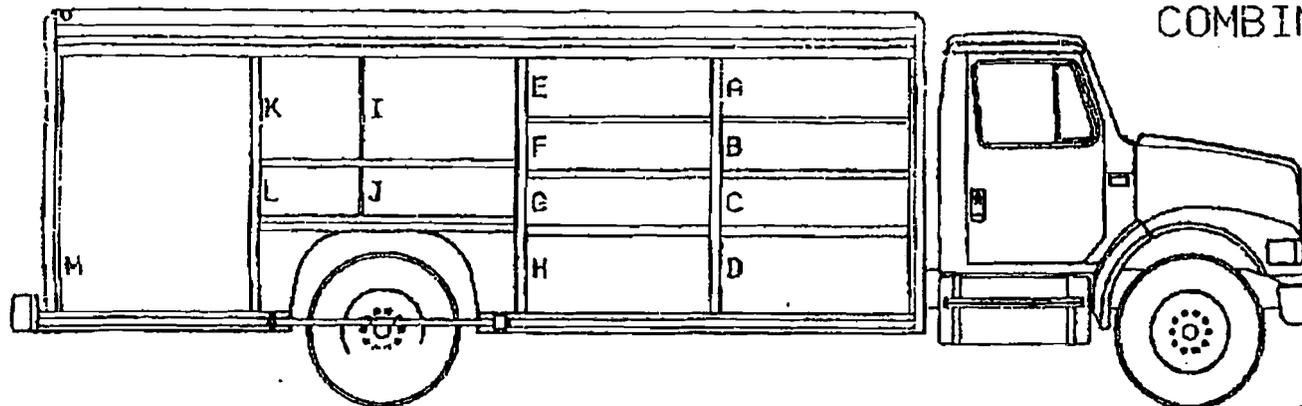
405 BATTERIES
6,151 POUNDS

CHASSIS GVW - 33,000
FRONT AXLE - 12,000
REAR AXLE - 21,000

WEIGHT DISTRIBUTION

FRONT AXLE: 11,777
REAR AXLE: 17,662
COMBINATION: 29,439

total weight per bin	total weight per bin	total weight per bin	total weight per bin
-0-	2,135	2,554	3,452



Curbside



JUL-07-1999 12:09

RSPA/PAHHS

202 366 3753 P.14.14

DEMO8001

TOTAL P.14

Handwritten signature

BEGINNING LOAD

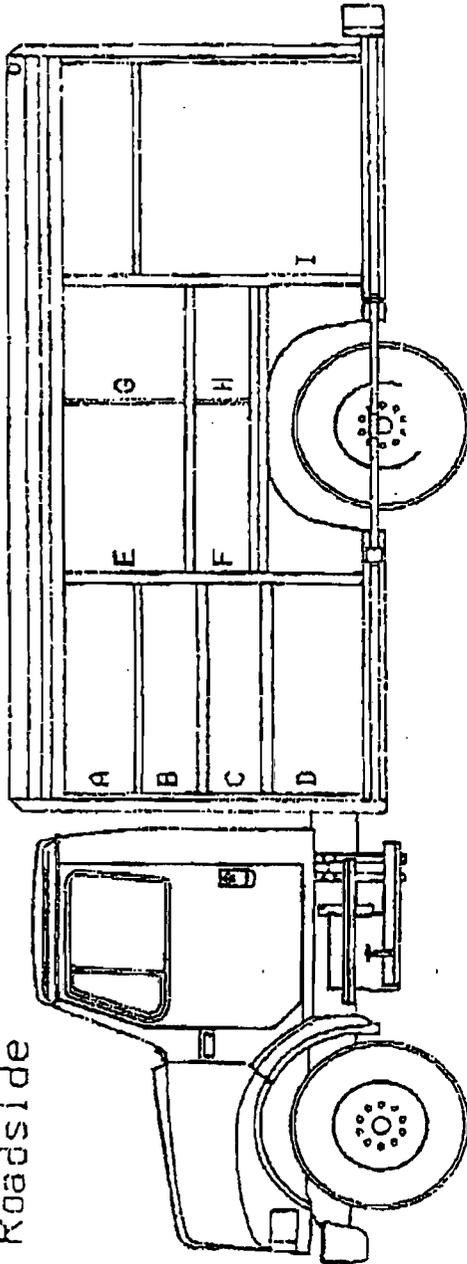
total weight per bin	total weight per bin	total weight per bin
2,861	2,110	494

PAYLOAD: 325 BATTERIES
 11,812 POUNDS
 CHASSIS GVW - 29,000
 FRONT AXLE - 10,000
 REAR AXLE - 19,000

WEIGHT DISTRIBUTION

FRONT AXLE: 7,572
 REAR AXLE: 15,760
 COMBINATION: 23,332

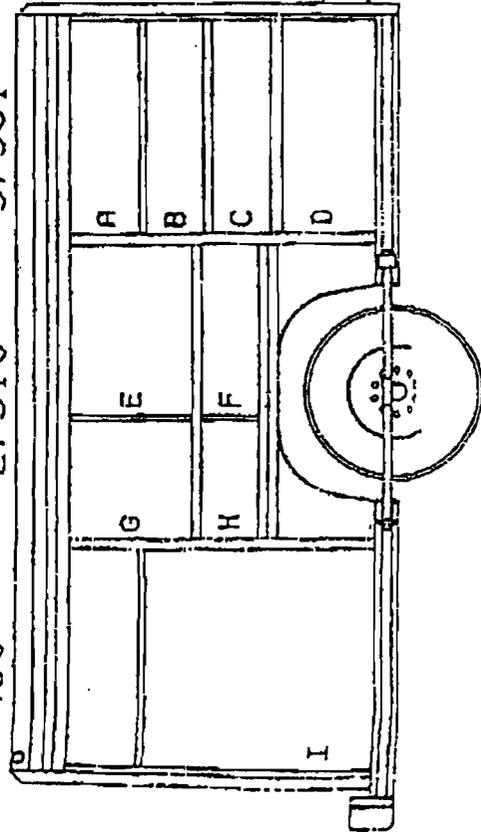
Roadside



total weight per bin
456

total weight per bin
2,510

total weight per bin
3,381



Curbside



DEM006002

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