



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

March 3, 2025

Robert Stewart
President
Automotive Anti-Counterfeiting Council, Inc.

Reference No. 24-0083

Dear Mr. Stewart:

This letter is in response to your September 13, 2024 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to transportation of used and counterfeit airbags, airbag inflators, micro-gas generators, and other supplemental restraint system (SRS) component parts.¹ Specifically, you state that the Automotive Anti-Counterfeiting Council's (A2C2) interest is in preventing the sale of these devices on e-commerce platforms, and ask several questions regarding how the HMR's requirements apply to the same.

We have paraphrased and answered your questions as follows:

- Q1. Are e-commerce platforms responsible for confirming that third party sellers have PHMSA approval to transport explosive devices in commerce?
- A1. The answer depends on whether the e-commerce platform performs a function subject to the HMR. It is the shipper's (*i.e.*, the offeror's) responsibility to offer hazardous materials for transportation in compliance with the requirements of the HMR, including proper classification (*see* Section 173.22(a)(1)). If an e-commerce platform participates in the transport of hazardous material (*i.e.*, acts as a carrier), tenders, or makes the hazardous material available to a carrier for transportation in commerce, or otherwise performs or is responsible for performing any pre-transportation functions for the material, it is responsible for performing those functions in accordance with the HMR.

Please be advised that shipments of hazardous materials may have more than one offeror responsible for pre-transportation functions. In such cases, each offeror who performs a pre-transportation function may rely upon information provided by another offeror, unless that offeror knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the

¹ These devices, which contain pyrotechnic substances or other hazardous materials, and are used in vehicles, vessels, or aircraft to enhance safety to persons are typically classified as "UN3268, Safety Devices, *electrically initiated*, 9" for transportation - see PHMSA's Safety Device Classification Policy (87 FR 62177, 10/13/2022) for further details: <https://www.federalregister.gov/documents/2022/10/13/2022-22200/hazardous-materials-safety-device-classification-policy>.

other offeror is incorrect. To the extent that an e-commerce platform is not performing any pre-transportation or transportation functions, they are not responsible for confirming a seller's approval to transport a hazardous material.

Please also note that specific safety devices—airbags, airbag inflators, and seatbelt pretensioners—may be classified as “UN3268, Safety Devices, *electrically initiated*, 9” by a PHMSA-approved explosives testing laboratory without further approval by PHMSA or assignment of an EX-approval number (*see* Section 173.166(b)(1)).²

Q2. Does a rebuilt safety device, such as a device created by installing a new micro-gas generator³ into a seatbelt pretensioner from another manufacturer, require a new approval?

A2. A rebuilt safety device would require examination and classification by a PHMSA-approved explosives testing laboratory; however, as stated in answer A1, certain Class 9 safety devices may be classified by a PHMSA-approved explosives testing laboratory without further approval by PHMSA. To the extent that a new design type of a seatbelt pretensioner exceeds the maximum parameters of the original design type tested by a PHMSA-approved explosives testing laboratory, the new design type must be examined and tested by a PHMSA-approved explosives testing laboratory prior to transportation. Also, if a person, other than the original manufacturer, rebuilds a safety device by installing a new micro-gas generator into a seatbelt pretensioner, that person is making a new explosive (*see* Section 173.56(a)(1)) that must be examined and tested by a PHMSA-approved explosives testing laboratory prior to transportation.

You ask the following additional questions about PHMSA's Hazardous Materials Program Procedures (*see* Part 107).

Q3. To whom and by what process can A2C2 and affiliated members report suspected counterfeit and non-approved parts?

A3. A2C2 and affiliated members may submit reports of suspected violations of the requirements of the HMR to HM-Enforcement@dot.gov. There is no prescribed format for such reports; however, inclusion of specific details, such as the location of the suspected violation, when the suspected violation occurred, and any other pertinent details, will assist PHMSA's investigators in evaluating the report.

Q4. Would PHMSA consider working with other governmental agencies to create a standardized notification form to report suspected counterfeit and non-compliant safety devices?

² Other types of Class 9 safety devices must be approved by PHMSA prior to transportation.

³ Micro-gas generators transported separately from a mechanical device used in vehicles, vessels or aircraft that enhances safety to persons are generally not classified as UN3268 and must be approved and assigned an EX-number by PHMSA prior to transportation. 87 FR 62179.

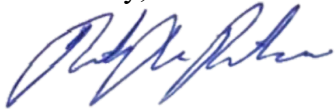
- A4. We have no plans to engage with other governmental agencies to develop such a form at this time, however we would welcome input from your organization and other government agencies about the usefulness of such a form. As discussed in answer A3, please note that PHMSA accepts reports of suspected violations of the HMR in any format.
- Q5. Can PHMSA publish approved explosives testing laboratory certificates on its website for increased transparency?
- A5. PHMSA currently publishes the contact information for all PHMSA-approved explosives testing laboratories on its website here: <https://www.phmsa.dot.gov/hazmat/energetic-materials-approvals/explosive-test-labs>. The approvals held by each of these explosives testing laboratories may be found by searching the company's name in PHMSA's Hazardous Materials Approvals Search Page: <https://www.phmsa.dot.gov/approvals-and-permits/hazmat/approvals-search>.

As discussed in answer A1 of this response, PHMSA-approved explosives testing laboratories are not required to submit the certifications for certain Class 9 safety devices to PHMSA for approval. Therefore, as a general practice, PHMSA does not maintain records of certifications issued by explosives testing laboratories for individual Class 9 airbags, airbag inflators, and seatbelt pretensioners. Records of Class 9 airbag, airbag inflator, and seatbelt pretensioner certifications that PHMSA requests from explosives testing laboratories or safety device manufacturers during investigations of suspected violations of the HMR, or during routine compliance inspections, are generally not made publicly available and not published on the PHMSA website. Other Class 9 safety device approvals, as well as approvals for Division 1.4G safety devices are available on the PHMSA website at the approvals search page linked above.

PHMSA shares A2C2's concerns related to unexamined and untested safety devices in transportation, particularly those devices that contain pyrotechnic material. PHMSA looks forward to working with you to identify these non-compliant safety devices and remove them from transportation.

We hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dirk Der Kinderen', is positioned above the printed name.

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

From: [Patrick, Eamonn \(PHMSA\)](#)
To: [Dodd, Alice \(PHMSA\)](#)
Cc: [Kelley, Shane \(PHMSA\)](#); [DerKinderen, Dirk \(PHMSA\)](#); [Wolcott, Alexander \(PHMSA\)](#)
Subject: Fwd: Request for PHMSA Interpretation - E-Commerce Explosive Device Sales
Date: Monday, September 16, 2024 11:10:09 AM
Attachments: [A2C2_DOT-Interpretation-of-Regulations-Letter_FINAL\(9-13-24\).pdf](#)

Hi Alice,

Please check this LOI in for assignment. You can include a note to the specialist that Adam Lucas has additional information.

-Eamonn

From: Lucas, Adam (PHMSA) <Adam.Lucas@dot.gov>
Sent: Monday, September 16, 2024 9:58:15 AM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>; DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>; Patrick, Eamonn (PHMSA) <eamonn.patrick@dot.gov>
Cc: Braxton, Yolanda (PHMSA) <yolanda.braxton@dot.gov>
Subject: FW: Request for PHMSA Interpretation - E-Commerce Explosive Device Sales

Good Morning Shane, Dirk, and Eamonn,

Please see the attached letter that we received from the Automotive Anti-Counterfeiting Council (A2C2). They are submitting this letter after discussions that Bill Schoonover, Carey Davis, and I had with them in Detroit a few weeks ago. Bill asked that we route the letter through your team for response. I am available to discuss and provide input and background as needed.

Thanks for your help!

-Adam

From: A2C2 President <President@a2c2.com>
Sent: Friday, September 13, 2024 3:29 PM
To: Lucas, Adam (PHMSA) <Adam.Lucas@dot.gov>
Subject: Request for PHMSA Interpretation - E-Commerce Explosive Device Sales

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Lucas,

Please see the attached letter from the Automotive Anti-Counterfeiting Council, pertaining to concerns about the ongoing sale of counterfeit airbags and related components on e-commerce platforms.

Thank you for your consideration.

Best regards,

Robert Stewart
President
Automotive Anti-Counterfeiting Council, Inc.
(810) 965-4256
www.A2C2.com

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September 13, 2024

Adam Lucas
Chief, Enforcement Branch
Office of Hazardous Materials Safety, Policy and Programs
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Mr. Lucas,

The Automotive Anti-Counterfeiting Council (A2C2), which is an association of 11 North American original equipment vehicle manufacturers, has been committed to preventing the sale of all vehicle airbag modules, airbag inflators, seat belt micro gas generators, and other supplemental restraint system (SRS) component parts on e-commerce platforms for several years. In conjunction with e-commerce representatives and because of A2C2's efforts, Amazon and Alibaba have implemented official policies preventing the listing and sale of airbags and are generally effective in practice. Facebook Marketplace has a similar prohibitive policy; however, sales of these items continue. eBay allows the sale of such items.

The industry and governmental agencies have seen a dramatic rise in counterfeit and non-genuine safety devices installed in salvage/repaired vehicles and available on domestic and international e-commerce websites. Counterfeit and non-genuine parts may not adhere to the original equipment manufacturers' (OEM) specifications, which outline environmental testing to simulate long-term performance through validation to the specification. This non-compliance with the original OEM specification can lead to parts degrading more quickly or performing unpredictably. The result is an increased risk of severe injury or fatality for the driving public as these parts may fail during a collision.

The industry is concerned with the sale of counterfeit, non-genuine, and used airbags, inflators, micro gas generators, and other SRS components for reasons including, but not limited to, the following:

1. These items are explosive devices and may not be manufactured, stored, packaged, shipped or transported in compliant methods.
2. The explosive content, nature, performance and stability of counterfeit and non-genuine parts—some of which are listed on e-commerce websites—are unknown, putting those who encounter these items at risk when storing, handling, packaging and transporting.
3. Some airbags, inflators, micro gas generators, seat belts and other SRS component items offered for sale may not operate according to OEM requirements and standards, especially those that are counterfeit, non-genuine, used/salvaged or recalled, despite advertisement to the contrary.



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We assess the facilitation of sales of explosive materials on e-commerce platforms may be in violation of HMR 49 CFR parts 171-180 and/or other codes, laws, statutes or regulations governed by the Department of Transportation and/or DOT Pipeline and Hazardous Materials Safety Administration (PHMSA), which in effect state:

Automobile safety devices must be approved by PHMSA per 49 CFR 173.166(b) before transportation in commerce. Unapproved safety devices, including counterfeit airbags, are unauthorized explosives, and no person may offer for transportation or transport an explosive unless it has been tested, classed and approved by the associate administrator per 49 CFR 173.56 and 49 CFR 173.166(b) unless otherwise provided with the 49 CFR.

To assist efforts to protect consumers, shippers, logistics providers, cargo handlers, transporters, agents, officers and bystanders that process, move, handle and encounter such explosive materials, A2C2 requests the Department of Transportation Pipeline and Hazardous Materials Safety Administration's interpretation of DOT requirements, federal regulations, laws, codes, and statutes pertaining to e-commerce companies facilitating the sale of airbags, inflators, micro gas generators, seat belts and other SRS components.

Specifically, A2C2 requests clarification and assistance from PHMSA on the following items:

1. Are e-commerce platforms responsible for confirming sellers have PHMSA approval to transport explosive devices in commerce according to 49 CFR?
2. Does a rebuilt safety device require new USDOT approval? For example, does a new micro gas generator installed in a seat belt pre-tensioner from a different manufacturer require new approval?
3. To whom and according to what process should A2C2 and affiliate members report suspected counterfeit and non-approved parts?
4. Would PHMSA consider working with other governmental agencies to create a standardized notification form that can be used by law enforcement and industry to report suspected counterfeit and non-approved safety devices?
5. Can PHMSA upload USDOT Explosive Test Laboratories Certificates to its websites to allow for increased transparency to law enforcement?

Thank you for your consideration of this request. If you require additional information, please contact me at admin@a2c2.com or 810-965-4256.

Sincerely,



Robert Stewart
President
Automotive Anti-Counterfeiting Council, Inc.
A2C2.com



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