



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

MAR 30 2018

Susan JP Flanagan
Legislative & Regulatory Counsel
Institute of Makers of Explosives
1212 New York Avenue NW Suite 650
Washington, DC 20005

Reference No. 17-0111

Dear Ms. Flanagan:

This letter is in response to your September 26, 2017, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to revisions made by the June 2, 2016, final rule titled "Hazardous Materials: Miscellaneous Amendments (RRR)" [HM-218H; 81 FR 35483], which removed the packing group (PG) II designation for Class 1 explosives from the Hazardous Materials Table (HMT).

We have paraphrased and answered your questions as follows:

- Q1. You describe a scenario in which a special permit issued prior to June 2, 2016, includes the packing group for Class 1 explosives, which has since been removed by the HM-218H final rule. The special permit does not otherwise specify requirements related to the packing group. You ask whether the inclusion of the packing group in the hazardous materials description for the special permit requires the shipper to include the packing group on the shipping paper.
- A1. The answer is no. Section 172.202(a)(4) provides a long-standing exception from the requirement to list a packing group on the shipping paper for Class 1 materials. The packing group was not required prior to the publication of the HM-218H final rule. The HM-218H final rule removed the packing groups to better clarify that packing groups on shipping papers are not required for certain HMT entries.
- Q2. You ask whether shipping papers filled in accordance with Canadian Transportation of Dangerous Goods (TDG) Regulations are permitted to display a packing group.
- A2. The answer is yes. As provided in § 171.12(a), a hazardous material classed, marked, labeled, placarded, described on a shipping paper, and packaged in accordance with the TDG Regulations, issued by the Government of Canada, may be offered for transportation and transported to or through the U.S., by motor vehicle or rail car. Therefore, such shipments may display a packing group in accordance with the TDG.

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

Sincerely,

A handwritten signature in blue ink that reads "T. Glenn Foster". The signature is written in a cursive style with a long horizontal flourish extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention
Standards and Rulemaking Division

Lehman

Explosives
17-0111

January, Ikeya CTR (PHMSA)

From: DerKinderen, Dirk (PHMSA)
Sent: Wednesday, October 11, 2017 11:35 AM
To: January, Ikeya CTR (PHMSA); Dodd, Alice (PHMSA)
Subject: FW: (Final) Ltr of Interp Request 22SEP17.docx
Attachments: (Final) Ltr of Interp Request 26SEP17.docx

Please enter this request into our database and assign. Also, please be sure to include the below points from Shane.

Suggested points for an interp that addresses the HMR requirements:

- (1) the PG has was optional under HMR before we changed the table display and remains optional (need to confirm if true - that is my understanding)
- (2) the PG was removed from the Table simply to visually clarify that it is not (nor was it previously) required on the shipping paper
- (3) an SP that shows a PG in displaying the entry does not change the fact that no PG is required on the shipping paper under the HMR; and
- (4) a shipping paper showing the PG (such as one conforming to the TDGR) is not in violation of the HMR (172.202(a)(4) provides an option but it is not a violation to show it).

Sincerely,
Dirk Der Kinderen

From: Inch, Kimberly CTR (PHMSA)
Sent: Tuesday, September 26, 2017 4:46 PM
To: DerKinderen, Dirk (PHMSA) <Dirk.DerKinderen@dot.gov>; Foster, Glenn (PHMSA) <Glenn.Foster@dot.gov>
Cc: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>
Subject: FW: (Final) Ltr of Interp Request 22SEP17.docx

Hi Dirk,

Just wanted to make sure you received the attachment.

Thanks!

Kim Inch
Executive Assistant
Office of Hazardous Materials Safety
US DOT | PHMSA Contractor
Unispec Enterprises, Inc.
E21-317 | 202-366-0656

From: Susan Flanagan [<mailto:sjflanagan@ime.org>]
Sent: Tuesday, September 26, 2017 2:21 PM
To: Meidl, Rachel (PHMSA) <rachel.meidl@dot.gov>
Cc: dsatkowiak ime.org <dsatkowiak@ime.org>
Subject: (Final) Ltr of Interp Request 22SEP17.docx

Hello Dr. Meidl,

Please see the attached request for a Letter of Interpretation re the elimination of the PG II determination for Class 1 shipments.

Please let me know if you have any questions or concerns.

Thank you,

Susan

Susan JP Flanagan
Counsel for Legislative & Regulatory Affairs
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