



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUN 29 2018

Mr. Richard Hope
United Kingdom Ministry of Defence
Defence General Munitions Project Team
Fir 1C
Mailpoint 4115
MOD Abbey Wood
Bristol
BS34 8JH

Reference No. 18-0012

Dear Mr. Hope:

This letter is in response to your January 23, 2018, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the shipment of ammunition into the United States by the United Kingdom (UK) Ministry of Defence (MOD).

Your questions are paraphrased and answered below.

Q1: You state that UK MOD is seeking to transport ammunition into the United States for use in joint training exercises and that you have applied for EX numbers in the past only to be told that EX numbers are not required for certain ammunition types. You ask if the ammunition UK MOD is transporting into the United States is required to have an EX number.

A1: Provided you are shipping ammunition that meets the exceptions in § 173.56(h), an EX number is not required. As stated in § 173.56(h), the requirements of § 173.56 do not apply to cartridges, small arms that are:

- Not a forbidden explosive under § 173.54;
- Ammunition for rifle, pistol, shotgun, or tools;
- Ammunition with inert projectile or blank ammunition; and
- Ammunition not exceeding 50 caliber for rifle or pistol cartridges or 8 gauge for shotgun shells.

“Cartridges, small arms” meeting these criteria may be assigned a classification code of 1.4S by the manufacturer (see § 173.56(h)). The exception applies to domestically or internationally manufactured “Cartridges, small arms” that transit the United States. However, this provision does not relieve a manufacturer outside of the United States from

obtaining any necessary competent authority approvals from the country of origin, transit, or overflight when the ammunition is transported.

Q2: You ask if UK MOD, as a government competent authority, can obtain an approval from the Associate Administrator for Hazardous Materials Safety for the transportation of all UK MOD owned ammunition having a current UK competent authority certificate to and within the United States in accordance with § 173.56(f) and (g).

A2: The answer is yes. UK MOD may apply for a blanket approval for the shipment of its ammunition to and within the United States. Such requests should be submitted to Associate Administrator for Hazardous Materials Safety (PHH-32), Department of Transportation, East Building, 1200 New Jersey Avenue SE, Washington DC 20590-0001. Alternatively, the application in an appropriate format may be submitted by fax to: (202) 366-3753 or (202) 366-3308 or by email to: approvals@dot.gov.

I 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 "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

Andrews
§ 173.56
Explosives
18-0012

Dodd, Alice (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, January 25, 2018 12:11 PM
To: Hazmat Interps
Subject: FW: interpretation letter
Attachments: FW: ESTC Classification

Hello All,

Please see the below and attached request for interpretation.

Regards,
-Breanna

From: Hope, Richard C2 (DES WpnsDGM-Dismounted-Eng1b) [mailto:Richard.Hope101@mod.gov.uk]
Sent: Tuesday, January 23, 2018 5:24 AM
To: INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>
Subject: interpretation letter

Dear Sir/Madam,

I am writing from the UK Ministry of Defence with 2 requests for clarification, I am after letter(s) of interpretation to clarify what products we use that require an EX number and which are already covered under the rules such as below.

§173.56 New explosives—definition and procedures for classification and approval.

(h) The requirements of this section do not apply to cartridges, small arms which are:

- (1) Not a forbidden explosive under §173.54 of this subchapter,
- (2) Ammunition for rifle, pistol, shotgun, or tools;
- (3) Ammunition with inert projectile or blank ammunition; and
- (4) Ammunition not exceeding 50 caliber for rifle or pistol cartridges or 8 gauge for shotgun shells.

Cartridges, small arms meeting the criteria of this paragraph (h) may be assigned a classification code of 1.4S manufacturer.

Request 1

In a recent discussion with one of your Transportation Specialists I was informed that the above paragraph (173.56) would apply to all Small arms calibre not exceeding .50 or 8 gauge classified as 1.4S and as such we would not require an EX number.

Just to clarify the situation we have some ammunition that while not new to us might be the first time we have wanted to transport within the USA due to a combined UK and USA special forces exercise. And as such we had applied for EX numbers only to be told they are no longer required for certain ammunition items. Due to the rules and regulations that we use some of our logistic transport companies are reluctant to transport unless they have an EX number or official letter saying that an EX number is not required. If we can get an interpretation letter to clarify this matter it would be appreciated.

Request 2

On a different note but similar direction and might cover the above request, going by the 2 paragraphs below from the same section (173.56) would we as a foreign government competent authority be able to gain an approval/interpretation letter from the Associate Administrator approving transportation of all UK MoD owned ammunition that has a current UK competent authority certificate and pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code (IBR, see §171.7 of this subchapter), or other national or international regulations based on the UN Recommendations?

As stated in para (f and g) below if these provisions are met and the Associate Administrator has acknowledged in writing the acceptability of an approval issued by the competent authority of a foreign government we would not have to apply for EX numbers for the 1,080 different ammunition items we currently have in service we would just need a copy of the foreign competent authority approval, and a copy of the written acknowledgement of its acceptance must accompany each shipment of that explosive?

(f) Notwithstanding the requirements of paragraphs (b) and (d) of this section, the Associate Administrator may approve a new explosive on the basis of an approval issued for the explosive by the competent authority of a foreign government, or when examination of the explosive by a person approved by the Associate Administrator is impracticable, on the basis of reports of tests conducted by disinterested third parties, or may approve the transportation of an explosives sample for the purpose of examination by a person approved by the Associate Administrator.

(g) An explosive may be transported under subparts B or C of part 171 or §176.11 of this subchapter without the approval of the Associate Administrator as required by paragraph (b) of this section if the Associate Administrator has acknowledged in writing the acceptability of an approval issued by the competent authority of a foreign government pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code (IBR, see §171.7 of this subchapter), or other national or international regulations based on the UN Recommendations. In such a case, a copy of the foreign competent authority approval, and a copy of the written acknowledgement of its acceptance must accompany each shipment of that explosive.

It seems quite clear to me from para (g) that if we can get the Associate Administrator to supply in writing the acceptability of an approval issued by the UK competent authority this would then save both UK and US DoT a lot of unnecessary time and effort. I am not sure why this has never been requested before especially as an example we purchase some ammunition from US companies (which would obviously already have either an EX number or no requirement to have been transported to us) we then repack the ammunition to even more stringent Safety requirements as per our guidelines and regulations and then have to apply for EX numbers on a safer product because the packaging has changed.

If it helps all 1,080 different ammunition items that we (UK Armed Forces) use and would want to transport within the USA will always have a current UK Competent Authority certificate (confirmation of competent authority policy and regime attached) before we will allow it to be transported anywhere.

Please let me know if any further information is required.

Regards

Richard Hope

Mr Richard Hope BSc MExpE | SAA Engineer | Defence General Munitions Project Team
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Richard.hope101@mod.gov.uk [Find Me On Communicator](#) Please consider the environment before printing this email

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Without Commitment or Prejudice

I am not a commercially-empowered individual, and any statements are without prejudice to the Authority's rights and are without commitment.

Dodd, Alice (PHMSA)

From: Hope, Richard C2 (DES WpnsDGM-Dismounted-Eng1b) <Richard.Hope101@mod.gov.uk>
Sent: Tuesday, January 23, 2018 5:12 AM
To: Hope, Richard C2 (DES WpnsDGM-Dismounted-Eng1b)
Subject: FW: ESTC Classification

From: Cooke, Mark C2 (DSA-DOSR-PRG-4)
Sent: 23 January 2018 10:03
To: Hope, Richard C2 (DES WpnsDGM-Dismounted-Eng1b)
Subject: RE: ESTC Classification

Richard

I have taken over the Classification work from Jo now:

In terms of your question I can confirm that MOD Defence Safety Authority (DSA) Defence OME Safety Regulator holds the following:

DOSR Authority

The DOSR is an independent regulator within Defence who holds a personal letter of delegation from the 3* Director General of the DSA which defines his authority and responsibilities. This directs the DOSR to regulate Ordnance, Munitions and Explosives (OME) safety across Defence activities in accordance with the Secretary of State's policy statement and to maintain a regulatory regime.

The Defence OME Safety Regulator is the United Kingdom Competent Authority for the classification of Military Explosives in accordance with Statutory Instruments 2011 No. 1885, The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment (Amendment) Regulations 2011.

This enables DOSR to issue an approval as the competent authority, pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code, or other national or international regulations based on the UN Recommendations.

Regards

Mark Cooke

MARK COOKE MIExpE

DSA-DOSR-PRG-4 | Defence Safety Authority | #5004 Juniper Level 0, Wing 1 | MOD Abbey Wood | Bristol | BS34 8QW | Telephone 0796 7751684

DSA VISION - Demonstrably safe, environmentally sound, effective and available Defence capability.

PLEASE NOTE MY NEW NUMBER 0796 7751684