



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

MAR 13 2013

Mr. Rick Chewning
GeoDynamics
10500 West Interstate 20
Millsap, TX 76066

Reference No. 12-0013R

Dear Mr. Chewning:

This is in response to your e-mail asking us to define the term “in transit” under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you describe a scenario in which you have a skid of Class 1.4 explosives, packaged, placarded, and strapped to the flatbed of a pick-up truck. You ask whether the truck may be loaded the night before delivery provided the truck and warehouse is locked. You state that the warehouse has an alarm system with code-specific security gates at the entrances.

The term “in transit” is not defined in the HMR. However, for purpose of the HMR, as defined in § 171.8, “transportation” or transport means the movement of property and loading, unloading, or storage incidental to that movement. With respect to the pick-up truck, it may be loaded the night before delivery. However, for a private motor carrier, transportation in commerce does not begin until the motor vehicle driver takes possession of the hazardous material for the purpose of transportation. Transportation continues until the driver relinquishes possession of the hazardous material at its destination and is no longer responsible for performing functions subject to the HMR (§ 171.1(c)).

In the case of a private motor carrier, hazardous materials stored temporarily at a location after the driver has taken possession of the hazardous material for the purpose of transportation is considered storage incidental to movement and is subject to the HMR (§ 171.1(c)(4)). Although no specific length of time is prescribed in the HMR, as specified in § 177.800(d), all shipments of hazardous materials, including explosives, being transported by motor vehicle (in this case, a pick-up truck) must be transported without unnecessary or undue delay, from and including the time of the start of loading of the hazardous materials until its final unloading at the destination. (Also, for your information, see § 172.800 for security plans and applicability.)

I hope this information. Please contact this office should you have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

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

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Monday, January 09, 2012 3:31 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Letter of Interpretation

Hi Carolyn,

Rick Chewning requested this e-mail be submitted as a formal letter of interpretation during his 1/9/11 HMIC phone call with Adam Lucas.

Thanks,
Victoria

Victoria Lehman
Hazmat Information Center (HMIC)
<http://phmsa.dot.gov/hazmat/info-center>
(202) 366-1035

From: Rick Chewning [<mailto:Rick.Chewning@perf.com>]
Sent: Monday, January 09, 2012 1:24 PM
To: INFOCNTR (PHMSA)
Subject: Letter of Interpretation

Needed for this situation----Our company manufactures Class 1.4 oilfield explosives..I need clarification on what is called "IN TRANSIT"-----We have a skid of Class 1.4 explosives, correctly placarded, tarped ,and strapped to the flatbed of our pickup truck..Can we load the truck the night before , for delivery the next day, as long as our truck is locked,, the warehouse is locked with an alarm system with ADT,, and our facility ,GeoDynamics, has electronic -code specific - security gates at all entrances . Our goal is to be compliant at all times. Your guidance on this matter will be greatly appreciated..Thanks Rick...817-771-4740

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