



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

FEB 24 2000

Mr. Paul J. Vido
Bureau of Alcohol, Tobacco
and Firearms
Department of the Treasury
Washington, D.C. 20226

Ref No. 00-0015

Dear Mr. Vido:

This is in response to your letter regarding the requirements for temporary storage of explosives transported in a motor vehicle by highway under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

You provided the following scenario:

Dyno Nobel Transportation, Inc., transports explosives on behalf of the manufacturer, Dyno Nobel, Inc. The explosives are routinely stored temporarily at a location en route to their destination. One of the locations is partially owned by Dyno Nobel, Inc., and the other is leased. The trucks containing the explosives may remain at these locations for a period ranging from a few hours to more than a day.

You asked the following questions:

- Q1. Are the explosive materials on the trucks under DOT regulation during the time that they are at the temporary location?
- A1. The answer is yes. "Transportation," as defined in § 5102 of the Federal hazardous materials transportation law (49 U.S.C. 5101-5127) means the movement of property and loading, unloading, or storage incidental to the movement. Thus, explosives routinely stored temporarily at a location en route to its destination is considered "storage incidental to transportation" or "temporary storage."
- Q2. Does the length of time they rest at this location affect this determination?
- A2. Although no specific length of time is prescribed, all shipments of hazardous materials (e.g., explosives) by motor vehicle must be transported without unnecessary or undue delay, from and including the time of commencement of the loading of the hazardous material until its final unloading at destination (See § 177.800(d)).



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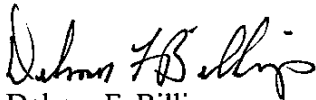
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- Q3. Additionally, if a portion of the explosive materials are unloaded for storage at this location, does this affect this determination with respect to the explosives remaining on the truck for further transportation?
- A3. The portion of the explosives stored temporarily at a location and the explosives remaining on the truck for further transportation are considered in transportation in commerce, and subject to the HMR. Transportation ends once a consignee takes physical delivery of the hazardous material from the carrier. After delivery, storage of hazardous material at a consignee facility is not storage incidental to the movement or temporary storage.

For your information, general requirements which address driving and parking rules and vehicle attendance requirements for explosives are in found in Part 397 of the Federal Motor Carrier Safety Regulations (FMCSR; 49 CFR Parts 200-399).

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

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

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Storage incidental to
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Mr. Ed Mazzullo
Director, Hazardous Materials Standards, RSPA
DHM-10
400 7th Street SW
Washington, DC 20590

Dear Mr. Mazzullo:

I am writing to request a determination of whether explosive materials on trucks and en route to their destination are under Department of Transportation (DOT) regulation under certain circumstances.

As you are aware, the explosives regulations at 27 CFR 55.141 exempt from this part "Any aspect of the transportation of explosive materials via railroad, water, highway, or air which is regulated by the U.S. Department of Transportation and its agencies, and which pertains to safety." Therefore, the Bureau of Alcohol, Tobacco and Firearms (ATF) generally does not regulate materials that are under the regulation of the Department of Transportation.

Dyno Nobel Transportation, Inc., transports explosive materials on behalf of the manufacturer, Dyno Nobel, Inc. It has come to our attention that the trucks carrying the explosives routinely come to rest temporarily at a location en route to their destination. One of the locations is partially owned by Dyno Nobel, Inc., and the other is leased. The trucks may remain at this location for a period of time ranging from a few hours to more than a day.

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Mr. Ed Mazzullo

Our questions are as follows:

- Are the explosive materials on the trucks under DOT regulation during the time that they are at the temporary location?
- Does the length of time they rest at this location affect this determination?
- Additionally, if a portion of the explosive materials are unloaded for storage at this location, does this affect this determination with respect to the explosives remaining on the truck for further transportation?

Thank you for your assistance in this matter. Please do not hesitate to contact Specialist Bill O'Brien at 202-927-8171 if you require further information.

Sincerely yours,



Paul J. Vido

Acting Chief, Arson and Explosives
Programs Division