



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

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

JUN 06 2013

Mr. E.A. Altemos  
HMT Associates, L.L.C.  
600 King Street, Suite 300  
Alexandria, VA 22314-3105

Ref No.: 13-0064

Dear Mr. Altemos:

This is a response to your March 27, 2013 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-185) with regard to the exceptions for the transport of black or smokeless powder for small arms. Specifically, you request clarification of the term "motor vehicle" as used in §§ 173.170 and 173.171.

You note that by using the term "motor vehicle" instead of "transport vehicle," the limitation of 45.4 kg (100 pounds) net mass is aggregated amongst all cargo-carrying bodies of a motor vehicle. You believe that this is an error and the term intended to be used was "transport vehicle," so that each cargo-carrying body could contain up to 45.4 kg (100 pounds) net mass of black or smokeless powder for small arms that is reclassified as a Division 4.1 material.

The term "motor vehicle" as defined in § 171.8 includes a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof. Furthermore, the term "transport vehicle" is defined as a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle. The use of the term "motor vehicle" in the exceptions for black and smokeless powder for small arms in §§ 173.170 and 173.171 is accurate. Please note that the reclassification of these materials to Division 4.1 is an exception and there is no limit on the amount of black and smokeless powder for small arms able to be transported on a single motor vehicle as fully regulated Class 1 explosives.

I hope this information is helpful. If you have any more questions, please do not hesitate to contact this office.

Sincerely,

Charles E. Betts  
Director  
Standards and Rulemaking Division

# HMT ASSOCIATES, L.L.C.

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ALEXANDRIA, VA 22314-3105

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FACSIMILIE: 703-549-0727

E.A. ALTEMOS  
PATRICIA A. QUINN

WRITERS DIRECT DIAL NUMBER

703-549-0727, ext. 11

March 27, 2013

Suchak

§ 171.8

§ 173.170

§ 173.171

Definitions

13-0064

Mr. Charles Betts  
Director, Standards and  
Rulemaking (PHH-10)  
Pipeline and Hazardous Materials  
Safety Administration  
Department of Transportation  
1200 New Jersey Avenue, SE  
East Building, 2<sup>nd</sup> Floor  
Washington, D.C. 20590-0001

Dear Mr. Betts,

This is to request clarification of the intent of the use of the term “motor vehicle” in the context of the exceptions for the transport of not more than 45.4 kg (100 pounds) of black or smokeless powder for small arms, as prescribed in §§173.170 and 173.171, respectively, of the DOT Hazardous Materials Regulations (49 CFR Parts 171-180, “the HMR”).<sup>1</sup> Under these provisions, black and smokeless powder that may otherwise have been classified in Class 1 may, under certain conditions and limitations, be classified and transported as a Division 4.1 flammable solid. One of the conditions attaching to these classification exceptions is that the total quantity of powder in a “motor vehicle” does not exceed 45.4 kg (100 pounds).

The term “motor vehicle” is defined, in pertinent part, in §171.8 of the HMR to include “a vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property” (emphasis added). Thus, a tractor pulling two or three trailers (known commonly in the motor carrier industry as a “double” or “triple”) is, by this definition, a single “motor vehicle.” Section 171.8 also includes a definition for a “transport vehicle” which provides that term includes “a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the

<sup>1</sup> Note that the 45.4 kg (100 pound) classification exception for smokeless powder prescribed in §173.171 is further reflected as a motor carrier limitation in §177.838(g) of the HMR.

HMT ASSOCIATES, L.L.C.

Mr. Charles Betts  
March 27, 2013  
Page 2

transportation of cargo by any mode. Each cargo carrying body (trailer, rail car, etc.) is a separate transport vehicle” (emphasis added). Thus, one “motor vehicle” may consist of more than one “transport vehicles.”

It would appear that the terms “transport vehicle” and “motor vehicle” are used almost interchangeably in the HMR and in related Agency correspondence, and not always with due regard accorded to the distinction between the two terms. One example is the attached RSPA Chief Counsel’s letter related to towing of a motor vehicle/transport vehicle which uses both terms in essentially the same context. Nevertheless, most requirements and exceptions in Parts 172 and 173 of the HMR tend to be applied on the basis of a “transport vehicle” rather than a “motor vehicle.” For example, placarding requirements attach to a “transport vehicle” and not a “motor vehicle,” as, indeed, does the 454 kg (1,001 pound) placarding exception for non-bulk packages (see §§172.504(a) and (c), respectively). General marking requirements applicable to highway unit (other than cargo tanks) also are prescribed on the basis of the individual “transport vehicle” (see, for example, §172.301(a)(3) and its “companion” §177.823). In Part 177 of the HMR, the motor carrier requirements for segregation are prescribed on the basis of a “transport vehicle” and not a “motor vehicle” (see §177.848). While it is certainly true that “motor vehicle” is used in various provisions in Part 177 of the HMR, for example, in the general loading requirements in §177.834(a), for the most part such requirements are applicable to each “transport vehicle” that may comprise a “motor vehicle” - and so that term is clearly appropriate with regard to certain regulatory provisions. But even in connection with this provision, the terms are sometimes used by PHMSA without strict regard to the precise definitions. To illustrate, the attached guide to consumer fireworks makes an interesting comment that materials loaded into a “transport vehicle” must be loaded, blocked and braced in accordance with Part 177, Subpart B. As you are aware, the regulations related to loading, blocking and bracing are at §177.834, and that section specifically speaks to “[p]ackages secured in a motor vehicle” (see §177.834(a)). Thus, while the choice of terms in any particular provision must be dependent on the precise intent and context, the terms “motor vehicle” and “transport vehicle” are sometimes employed without strict regard to the definitional distinction between them.

Certain PHMSA interpretation letters also support the notion that regulatory exceptions are intended to apply to the individual “transport vehicle” within a “motor vehicle.” For example, Interpretation 09-120 (copy attached), states that the 454 kg (1001 pound) placarding exception for non-bulk packages applies independently to a truck towing a trailer, even though the aggregate gross weight of Table 2 hazardous materials on the “motor vehicle” may exceed that limit. Similarly, PHMSA Interpretation 10-0261 (copy attached) confirms the intent that the materials of trade (MOTs) exception can be invoked for an individual transport vehicle within a motor vehicle (i.e., a utility truck), even when another “transport vehicle” (i.e., a trailer) in the motor vehicle does not qualify for that exception. In the context of this general

HMT ASSOCIATES, L.L.C.

Mr. Charles Betts  
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Page 3

philosophy with regard to applicability of regulatory exceptions to transport vehicles, it is curious that the same concept should not apply to the 45.4 kg (100 pound) exceptions for black and smokeless powder, and, indeed, it is arguably the actual intent that it does.

Moreover, a careful consideration of the wording for the 45.4 kg (100 pound) exception as employed in §§173.170 and 173.171 further suggests this is the actual intent. The classification exception can be applied based on limiting the weight of powder in any rail car to 45.4 kg (100 pounds) – with each rail car, by definition, a “transport vehicle.” The limitation is not dependent on the total quantity of powder in any train or series of rail cars. Both exceptions also apply to individual freight containers – each freight container, albeit not by definition a “transport vehicle,” certainly similar to one in terms of its use for the transportation of packaged hazardous materials. Thus, there is an apparent inconsistency if the exception applies, for example in rail transport, to each individual “transport vehicle,” whereas for transport by highway it would not apply to the individual “transport vehicle” but rather to the aggregate quantity in a “motor vehicle.”

Consequently, in consideration of the foregoing it appears that use of the term “motor vehicle” in §§173.170 and 173.171 may more be attributed to an unfortunate choice of words than reflective of the actual intent of the classification exception. Therefore, confirmation would be appreciated at your earliest convenience that, notwithstanding a precise reading of the classification exceptions in §§173.170 and 173.171 in the light of the relevant definitions in §171.8, it is PHMSA’s intent that the exceptions in those sections apply based on the quantity of powder in any “transport vehicle.”

Thank you for your consideration of this matter, and please do not hesitate to contact me if you have questions or require additional information in relation to this request.

Sincerely,



E. A. Altemos

Enclosed: RSPA Chief Counsel Letter Dated June 13, 1997  
PHMSA Interpretations 09-0120 and 10-0261  
Consumer Fireworks Advisory Letter



U.S. Department  
of Transportation

Research and  
Special Programs  
Administration

Office of the  
Chief Counsel

400 Seventh St. S.W.  
Washington D.C. 20590

JUN 13 1997

Cynthia Garcia, Esq.  
Assistant City Attorney  
Office of the City Attorney  
1000 Throckmorton  
Fort Worth, Texas 76102

Dear Ms. Garcia:

I am responding to your February 7, 1997 letter and telephone conversations with a member of my staff concerning the jurisdiction of the Federal hazardous materials transportation law (Federal hazmat law) (49 U.S.C. §§ 5101 et seq.) and the Hazardous Materials Regulations (HMR) (49 CFR Parts 171-180) as they apply to wreckers towing motor vehicles that contain hazardous materials. I apologize for the delay in responding to your letter and hope this delay has not caused you any inconvenience.

The Research and Special Programs Administration (RSPA) is one of the agencies within the U.S. Department of Transportation that is responsible for enforcing the requirements of the Federal hazmat law and the HMR. The HMR includes requirements for the classification, hazard communication, packaging, handling, loading and unloading of hazardous materials offered for or transported in commerce. As stated in 49 C.F.R. § 171.1, RSPA's jurisdiction, with respect to transportation by public highway is currently limited to interstate and foreign carriers by motor vehicle, and intrastate carriers by motor vehicle so far as the HMR apply to hazardous wastes, hazardous substances, flammable cryogenic liquids in portable tanks and cargo tanks, and marine pollutants. Effective October 1, 1997, the scope of the HMR expands to include the offering for transportation or transporting hazardous materials in interstate, intrastate, and foreign commerce by motor vehicle.

RSPA does view a wrecker which is towing a motor vehicle containing hazardous materials on a public highway, as transporting hazardous materials in commerce. Therefore, the Federal hazmat law and the HMR would apply to a wrecker which tows a disabled motor vehicle containing hazardous materials on

a public highway. However, the Federal hazmat law and the HMR do not apply to transportation that is entirely on private property and neither follows nor crosses a public highway.

RSPA has provided limited relief from the HMR under 49 C.F.R. § 177.823. This provision allows, under emergency situations where the movement of the disabled transport vehicle is necessary to protect life or property, a vehicle containing hazardous materials to be moved without being marked and placarded in accordance with the HMR. Under this exception, a wrecker would not need a placard and markings when towing a disabled transport vehicle on a public highway. This exception only applies to the extent an emergency situation exists and movement of the disabled transport vehicle is necessary to protect life or property. Thus, under this exception, the disabled transport vehicle may be moved only the minimum distance necessary to reach a place where the transport vehicle can be repaired safely.


RSPA has provided this limited exception to encourage the rapid removal of any disabled transport vehicle from a public highway during an emergency situation. However, during a nonemergency situation, the placarding, marking and all other provisions of the HMR would apply to a wrecker when it is towing a disabled transport vehicle on a public highway. Under these provisions, the operator of the wrecker must verify that the disabled transport vehicle is displaying the required placards and there are accompanying shipping papers. The shipping papers must accompany the disabled transport vehicle to its new location. The operator of the wrecker must have general awareness, safety, and function-specific hazard materials training (see 49 C.F.R. Part 172, Subpart H). These HMR requirements provide a minimal level of safety when the operator of wrecker assists a disabled transport vehicle which contains hazardous materials.

Your letter also asked whether the operator of the wrecker would have to comply with 49 CFR Parts 171-180 if there was a hazardous material incident during the towing operation. The answer is yes, because the wrecker's operator/owner is considered a "carrier" as defined in 49 C.F.R. § 171.8 and as the term is used in 49 C.F.R. §§ 171.15 or 171.16. In addition, RSPA encourages each person to report promptly each hazardous materials incident which, in the person's judgment, poses a continuing danger to life or property. In addition, the wrecker's operator/owner may be subject to a variety of other Federal, state or local regulations in the event of a hazardous materials incident.

In addition, you asked whether 49 C.F.R. Part 387 or any other regulations would apply to the wrecker's activities. Part 387 prescribes minimum levels of financial responsibility for motor carriers and is not part of HMR. It is my understanding that the Federal Highway Administration, Office of the Chief Counsel, Motor Carrier Law Division has received a copy of your letter and has responded to this issue. If you have any further questions concerning minimum levels of financial responsibility for motor carriers, please contact Mr. Joseph Solomey at (202) 366-0834.

I hope this response is useful. If you have any additional questions concerning the law or regulations discussed in this letter, please call Robert A. Monniere at 202-366-4400.

Sincerely,

  
Edward H. Bonekemper, III  
Assistant Chief Counsel for  
Hazardous Materials Safety



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

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

APR 01 2010

Mr. Gary LaBreck  
Fleet Safety Services, Inc  
12 Harvard Street  
Worcester, MA 01609

Ref. No. 09-0120

Dear Mr. LaBreck:

This responds to your letter requesting clarification of the placarding requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a pickup truck towing a trailer is considered two separate transport vehicles for the purposes of placarding under the HMR. Your client intends to transport less than 1,001 lbs aggregate gross weight of non-toxic compressed gases in both the pickup truck and the trailer where the total aggregate gross weight of cylinders in both cargo-carrying bodies exceeds 1,001 lbs.

As you are aware, § 171.8 of the HMR defines a transport vehicle as "a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or railcar used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle." Additionally, you are aware that placards are not required on a transport vehicle which contains less than 454 kg (1,001 lbs) aggregate gross weight of hazardous materials covered by table 2 of paragraph (e) under § 172.504. In the scenario you describe, the pick-up truck and trailer are two separate transport vehicles each carrying less than 454 kg (1,001 lbs) of eligible hazardous materials. Therefore, neither the pick-up truck nor the trailer is required to be placarded in highway transportation.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



**Drakeford, Carolyn <PHMSA>**

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**From:** INFOCNTR <PHMSA>  
**Sent:** Wednesday, May 13, 2009 3:34 PM  
**To:** Drakeford, Carolyn <PHMSA>  
**Subject:** FW: Hazmat Information Center Feedback: General Information, Regulations, and Definitions (Sections 171.1 &ndash; 171.26)

*Stevens*  
*§171.8*  
*§172.504*  
*Definitions / Placarding*  
*09-0120*

-----Original Message-----

From: PHMSA-Feedback [mailto:PHMSA-Feedback]  
Sent: Wednesday, May 13, 2009 3:06 PM  
To: PHMSA HM InfoCenter; PHMSA Webmaster  
Subject: Hazmat Information Center Feedback: General Information, Regulations, and Definitions (Sections 171.1 &ndash; 171.26)

REQUEST FOR A INTERPRETATION LETTER

§171.8 Definitions and abbreviations.

Transport vehicle means a cargo-carrying vehicle such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle.

§172.504 General placarding requirements.

(c)(1) A transport vehicle or freight container which contains less than 454 kg (1001 pounds) aggregate gross weight of hazardous materials covered by Table 2 of paragraph (e) of this section; or

Could I please receive an interpretation letter on the following?

I have a client that does environmental testing. They travel with a Pickup Truck which as a GVWR of 10,001 lbs or more. They also tow a trailer that has a GVWR of 7,000 lbs or more.

They haul cylinders of compressed gas in the trailer. They keep the weight under 454kg (1001 pounds). Per 172.504(c)(1) it does not meet the placarding requirements.

Under 171.8 it states that the truck and trailer are a separate transport vehicle.

The question for the interpretation letter is, can they carry cylinders in each separate vehicle as long as each vehicle has a weight under 454kg (1001 pounds)?

-----  
Name: Gary LaBreck  
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U.S. Department of Transportation

**Pipeline and Hazardous Materials  
Safety Administration**

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

**FEB 28 2011**

Mr. Chuck Denny  
Duke Energy Corporation  
526 South Church Street, EC13K  
Charlotte, NC 28202

Reference No.: 10-0261

Dear Mr. Denny:

This responds to your email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to a transport vehicle. Specifically, you ask for clarification on the definition of a transport vehicle and how this definition affects the use of the exceptions for materials of trade (MOTs) specified in § 173.6 and batteries specified in § 173.159 and 173.159a.

In your email, you describe a scenario in which a utility truck is pulling a trailer. The utility truck is carrying material meeting the MOTs exception, specified in § 173.6, while the trailer contains electric storage batteries. Your questions are paraphrased and answered as follows:

- Q1: Can a utility truck be considered a separate transport vehicle from a trailer that is connected to it?
- A1: The answer is yes. Transport vehicle means a cargo-carrying vehicle, such as an automobile, van, tractor, truck, semitrailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle. (See § 171.8.)
- Q2: If the answer to Q1 is yes, may each transport vehicle utilize separate exceptions specified in the HMR? Specifically, can the utility truck use the MOTs exception specified in § 173.6 while the trailer uses the electric storage battery exception specified in § 173.159(e)?
- A2: The answer is yes. If a transport vehicle contains any other hazardous materials, even those excepted from all or part of the HMR (e.g., materials of trade; see § 173.6), the exception specified in § 173.159(e) does not apply. However, since the utility truck and trailer are considered separate transport vehicles a person may utilize separate exceptions in each transport vehicle provided they meet all the requirements specified for each exception (i.e. §§ 173.6 and 173.159(e)).

Q3: If a transport vehicle contains both spillable and non-spillable lead acid batteries, can that transport vehicle utilize the exceptions specified in §§ 173.159(e) and 173.159a simultaneously?

A3: The answer is yes. Electric storage batteries containing electrolyte or corrosive battery fluid are excepted from the HMR when transported in accordance with the provisions specified in § 173.159(e). The exception in § 173.159(e) is applicable to “Electric storage batteries containing electrolyte or corrosive battery fluid” and does not differentiate between spillable and non-spillable lead acid batteries. The condition specified in § 173.159(e)(1) states that no other hazardous materials may be transported on the same vehicle. For the purposes of this exception, spillable and non-spillable batteries are both considered “Electric storage batteries containing electrolyte or corrosive battery fluid.” Therefore, provided no other hazardous materials are loaded in the transport vehicle with the spillable and non-spillable electric storage batteries and all the requirements of §§ 173.159 and 173.159a are met, the electric storage batteries would be excepted from the HMR.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and is positioned above the typed name.

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

Benedict

§173.159

§173.6

**Drakeford, Carolyn (PHMSA)**

**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, December 15, 2010 3:56 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 &ndash; 173.476)

Batteries

10-0261

Hi Carolyn,

Chuck Denny requested we forward this e-mail as a request for a formal letter of interpretation.

Thanks,

Victoria Lehman  
202-366-1035

-----Original Message-----

**From:** PHMSA-Feedback [mailto:PHMSA-Feedback]  
**Sent:** Tuesday, December 14, 2010 2:37 PM  
**To:** PHMSA HM InfoCenter; PHMSA Webmaster  
**Subject:** Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 &ndash; 173.476)

The following questions pertain to battery shipments and reference DOT interpretation letters 06-0062, 07-0026 and 98-0532.

Issue 1

A utility truck is pulling a trailer. The utility truck is carrying material under the Materials of Trade exception, 49 CFR 173.6. The trailer contains only lead acid batteries. Can the trailer transport the lead acid batteries exception under 49 CFR 173.159 (e) while connected to the utility truck carrying hazardous materials under the Materials of Trade exception 49 CFR 173.6? Per DOT interpretation 07-0026, the battery exception 49 CFR 173.159 (e) cannot be used with the Materials of Trade exception 49 CFR 173.6 when they are being transported on the same vehicle. Per DOT Interpretation, 98-0532, each cargo-carrying body (trailer) is a separate transport vehicle. Can the utility truck be considered a separate transport vehicle from the trailer that it is connected and allow one exception to be used on the utility truck and the other exception to be used for the trailer?

Issue 2

A transport vehicle contains both spillable and non-spillable batteries. Can lead acid batteries under 49 CFR 173.159 (e) and lead acid batteries under 49 CFR 173.159a both be transported together using both exceptions? Per DOT Interpretation 06-0062, the usage of both exceptions being used at the same time appears to be accurate.

The questions were sent earlier, but no response was received. Therefore, resubmitting with cell phone telephone number.

-----  
**Name:** Chuck Denny  
**Organization:** Duke Energy Corporation  
**Email:** [Chuck.Denny@duke-energy.com](mailto:Chuck.Denny@duke-energy.com)  
**Address:** 526 South Church Street, EC13K  
**City:** Charlotte  
**Zip Code:** 28202  
**Phone:** 704-564-1504  
**Country:** USA



U.S. Department  
of Transportation

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

**Pipeline and Hazardous  
Materials Safety Administration**

June 24, 2009

To: Fireworks shippers, distributors and carriers and related industry associations.

The Pipeline and Hazardous Materials Safety Administration (PHMSA), an agency of the U.S. Department of Transportation, wants to assure that every American has a safe and enjoyable Fourth of July.

PHMSA recently completed several investigations involving the transportation and storage of consumer fireworks by non-profit organizations. These investigations identified widespread problems related to these activities, including a lack of understanding of applicable Federal regulatory requirements covering hazard communication, training, and driver qualifications. PHMSA is concerned that many non-profit organizations who offer, accept, transport, and store fireworks do not understand the hazards posed by fireworks during transportation.

Some of the common violations and safety problems noted during our investigations include:

- No PHMSA Hazardous Materials Registration
- No Hazardous Materials Placards
- Limited or no Hazardous Materials Training, and
- No Commercial Drivers License (CDL) w/ Hazardous Materials Endorsement

In an effort to educate the non-profit organizations and increase their hazardous materials safety awareness, this letter summarizes the regulatory requirements that apply to consumer fireworks shipments and provides a point of contact to obtain additional information.

**Background**

Requirements governing the transportation of hazardous materials in commerce, including consumer fireworks, are contained in the Hazardous Materials Regulations (HMR; 49 Code of Federal Regulations Parts 171-180). The HMR apply to the commercial transportation of consumer fireworks, including transportation conducted by non-profit organizations in support of fund-raising activities.

The HMR specify appropriate packaging and handling requirements for hazardous materials, and require a shipper to communicate the material's hazards through use of shipping papers, package marking and labeling, and vehicle placarding. The HMR also

require shippers to provide emergency response information applicable to the specific hazard or hazards of the material being transported. Finally, the HMR mandate training requirements for persons who prepare hazardous materials for shipment or who transport hazardous materials in commerce. The HMR also include operational requirements applicable to each mode of transportation.

### **Questions and Answers**

#### **Q1. What do non-profit organizations need to know about the transport of consumer fireworks?**

A1. There are a number of Federal regulations that apply to the safe transportation of hazardous materials. If the regulatory requirements are not met then enforcement actions may be taken, to include significant civil penalties, criminal fines and imprisonment where applicable.

#### **Q2. Are consumer fireworks considered a hazardous material, and if so, do they require special handling in transportation?**

A2. Yes, the U.S. Department of Transportation identifies fireworks as a Division 1.4G explosive and regulates their safe transportation in commerce.

#### **Q3. What are the regulatory requirements applicable to consumer fireworks shipments?**

A3. In addition to the general and highway specific requirements of the HMR, all shipments of Division 1.4G fireworks by highway transport vehicle, including shipments from sales outlets and retail stands to storage areas or return, must conform to the following:

- The shipment must be accompanied by a shipping paper that describes the explosives, including the quantity being transported (see 49 CFR Part 172, Subpart C).
- The shipping paper must include a telephone number of a person who can provide comprehensive emergency response information about the fireworks; the telephone number must be monitored at all times the shipment is in transportation (see 49 CFR Part 172, Subpart G).
- The shipment must be accompanied by written emergency response information that describes the risks associated with the shipment and immediate precautions to be taken in the event of an accident (see 49 CFR Part 172, Subpart G).
- The packages containing the fireworks must be properly loaded, blocked and braced to restrict movement in the transport vehicle and protected against ignition sources (see 49 CFR Part 177, Subpart B).
- All persons involved with the transportation of the shipment, including persons who load and unload the transport vehicle and persons who operate the transport vehicle, must be trained. The training must cover the components specified in the

regulations (i.e., general awareness/familiarization, function specific, safety and security training) and must be documented (see 49 CFR Part 172, Subpart H).

**Q4. Are there additional requirements for transporting large quantities of consumer fireworks?**

A4. Yes, for any shipment of Division 1.4G fireworks that exceed 1,001 lbs gross weight on a transport vehicle the following additional requirements apply:


- The transport vehicle must be operated by a driver with a commercial driver's license with a hazardous materials endorsement (see 49 CFR 177.804 and 49 CFR Part 383).
- The transport vehicle must be placarded on each side and each end with EXPLOSIVES 1.4 placards (see 49 CFR Part 172, Subpart F).
- The shipper and the carrier must both develop and implement security plans that include an assessment of possible transportation risks of the fireworks and appropriate measures to address the risks. At a minimum, the security plan must address personnel security, en route security, and unauthorized access (see 49 CFR Part 172, Subpart I).
- The transporter/ carrier must apply and hold a current hazardous materials registration certificate with, and issued by, PHMSA (see 49 CFR Part 107, Subpart G).

**Q5. What are the potential federal consequences if I don't follow the requirements for transporting consumer fireworks?**

A5. Persons found to be in violation of the HMR may be subject to significant civil penalties, criminal fines and imprisonment. The maximum penalties depend on several factors, including the nature and circumstances, extent and gravity, and severity of the consequences of the violation, but can range up to \$100,000 per violation for a civil penalty and \$500,000 and ten years in prison for a criminal penalty.

**Q6. Where can I get more information about the safe transportation of consumer fireworks?**

A6. The HMR, along with more detailed information and guidance on the regulatory requirements governing the shipment of fireworks, are available at DOT's Hazmat Safety web site: <http://www.phmsa.dot.gov/hazmat>. In addition, you can obtain answers to specific questions from the Hazardous Materials Information Center at 1-800-467-4922 (in Washington, DC, call 202-366-4488).



R. Ryan Posten  
Director, Office of Hazardous Materials Enforcement