



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAY 27 2014

Mr. Tassilo Baur
FX Training & Research
827 N. Hollywood Way, Suite 552
Burbank, CA 91505

Ref. No. 14-0077

Dear Mr. Baur:

This responds to your March 21, 2014 letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You describe a scenario in which pyrotechnics and/or explosive devices are transported by a common or private carrier in quantities not requiring placarding to a location where they are to be used by person(s) in the entertainment industry (e.g., creating special effects in the production of a motion picture). These pyrotechnics and/or explosive devices meet the definition of hazardous material as Class 1 (explosive) material and specific examples include Division 1.4D (UN0289) (“detonating cords”), Division 1.4G (UN0431) (“pyrotechnic articles”), and Division 1.4S (UN0454) (“igniters”) materials. They are often subsequently transported on public roads by a person or company to a different location (e.g., another filming location, a temporary storage site). Based on the scenario described in your letter, your questions are paraphrased and answered below.

Q1. Do the HMR apply to the subsequent transport of the Class 1 (explosive) material by a person or company?

A1. Yes, the HMR apply to a person, as defined in § 171.8, that transports a hazardous material in commerce (see § 171.1). The above described activity of transport of the pyrotechnics and/or explosive devices by a person or company on public roads in support of a commercial enterprise is considered in commerce.

Q2. Is a person that is provided incorrect information about the applicability of the HMR and hazardous materials transport liable for penalties associated with noncompliance.

A2. Lack of awareness of HMR applicability is not a valid defense against any enforcement action. Under the HMR, any person performing transportation functions subject to the HMR must perform those functions in accordance with the applicable requirements. Moreover, the HMR require that persons performing a hazmat function must be properly trained to include general awareness and familiarity training on the HMR.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Benedict". The signature is written in a cursive, slightly slanted style.

Robert Benedict
Chief, Standards Development Branch
Standards and Rulemaking Division



TRAINING & RESEARCH

Der Kinderen
§171.1
§173.22
Applicability
14-0077

827 N. Hollywood Way Suite 552, Burbank, CA 91505 USA

March 21, 2014

U.S. DOT
PHMSA Office of Hazardous Materials Standards
Attn: PHH-10, East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Dear DOT,

I give courses in the DOT regulations, and was trained at DOT's Transportation Safety Institute. During my training there, I was taught that the Hazardous Material Regulations/HMR apply to the scenario below. Since then, I've repeatedly come in contact with people in the entertainment industry who have been told it does not, so I'm writing you for an interpretation.

Here is the scenario:

A person(s) or production company engaged in for-profit production of entertainment for motion picture, television, stage, print, Internet, etc. purposes orders pyrotechnics or explosives for purposes of creating special effects. These materials meet the definition of Class 1 under DOT regulations, and might include the following: UN0454 Igniters; UN0456 Detonators, electric; UN0431 & UN0432 Articles, pyrotechnic; UN0289 Cord, detonating; all in amounts which do not require placarding. The materials are delivered to a venue or shooting location by either a common carrier (such as FedEx) or a private carrier.


The person(s) or production company themselves then subsequently transports these materials, in whole or in part, on public roads to another venue, shooting location, studio, storage area, etc.

Question 1): Would the requirements of the HMR, most probably including packaging, marking, labeling, shipping papers, emergency response information, training, etc. apply to the latter transportation i.e. the subsequent transportation from one shooting location to another, etc.?

Question 2): Would person(s) or production company which had been told incorrect information and erroneously believed that the HMR did not apply when in fact, it did, nonetheless be liable for any fines or penalties incurred via violations of the HMR?

With thanks in advance for your response,

Sincerely,


Tassilo Baur