



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

MAR 10 2009

Mr. Richard L. Furman
DeOrchis & Partners, LLP
61 Broadway, Suite 2600
New York, New York 10006

Ref. No.: 08-0300

Dear Mr. Furman:

This responds to your letter dated December 5, 2008, regarding our response to a previous interpretation (Ref. No. 08-0179) concerning requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to small arms ammunition. Specifically, you ask if the exception in §173.56(h) applies solely to manufacturers, or whether it also applies to others, such as wholesalers, importers, or dealers in small arms ammunition.

The requirements in §173.56 address the process of producing and approving a new explosive. A “new” *explosive* means an explosive produced by a person who: (1) has not previously produced that explosive; or (2) has previously produced that explosive but has made a change in the formulation, design, or process so as to alter any of the properties of the explosive (see §173.56(a)). Paragraph (b) of this section authorizes qualified individuals to examine and assign a recommended shipping name, division, and compatibility group for new explosives. An explosive will not be considered a new explosive if an agency listed in paragraph (b) of this section has determined and confirmed in writing to the Associate Administrator that there are no significant differences in hazard characteristics from the explosive previously approved.

As stated in the previous interpretation, Ref. No. 08-0179, the “requirements of §173.56 do not apply to cartridges, small arms” when shipped in accordance with paragraph (h) of this section. In other words, the approval process prescribed in §173.56 does not apply to small arms ammunition; thus, producers or manufacturers, or wholesalers, importers, or dealers in small arms ammunition may take advantage of the exception. As previously stated in Ref. No. 08-0179, the exception does not relieve “manufacturers” outside of the United States

from obtaining any necessary competent authority approval from the country of origin, transit, or over flight when the ammunition is transported.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts". The signature is stylized and cursive, with the first name "Charles" written in a larger, more prominent script than the last name "Betts".

Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

December 5, 2008

Richard L. Furman
rfurman@cmk.com

Via Mail and Email: infocntr@dot.gov

Ms. Susan Gorsky
Acting Chief, Standards Development
Office of Hazardous Materials Standards
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Century International Arms
Request for Definitive Clarification
Your Reference No.: 08-0179
Our File: 972-1

Dear Ms. Gorsky:

We are writing in response to your reply of November 6, 2008, to our email request, dated July 9, 2008, for a definitive clarification regarding the requirements of 49 C.F.R. § 173.56(h) of the Regulations of the United States Department of Transportation (the "Regulations").

We apologize for the delay in responding, but the undersigned recently relocated to a new firm and we trust you can imagine how distracting and disruptive such a move can prove. Thank you for your understanding in this regard.

Thank you for your response to our inquiry. We appreciate the effort made to clarify and explain the application of the subject regulation. However, in one respect the letter may not have fully responded to our inquiry.

More specifically, we had posed two questions in our request of July 9. The first, regarding whether the exception in the regulation as to small arms cartridges applies to both domestically and internationally manufactured cartridges. Your response to this query is fully and clearly set forth in your reply letter.

We also asked whether the exemption applies solely to manufacturers or whether it is available to others, such as, for example, wholesalers, importers or dealers in small arms ammunition. If this inquiry was addressed in your letter, we respectfully submit it was not as clearly set forth as the reply to the first question referenced above.

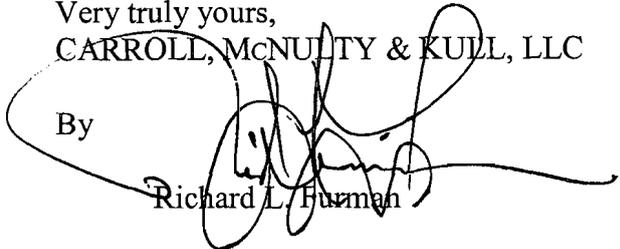
Therefore, we would very much appreciate your briefly revisiting this matter and clarifying whether the exemption for small arms cartridges provided for under 49 C.F.R. § 173.56(h) applies equally to manufacturers as well as others engaged in dealing with and transporting small arms cartridges. In the interest of full, good faith disclosure, it is our opinion that the regulation should apply across the board and not be limited solely to manufacturers.

Thank you in advance for your prompt reply to the forgoing.

Kindest regards.

Very truly yours,
CARROLL, MCNULTY & KULL, LLC

By


Richard L. Furman

RLF:npo