



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

1200 New Jersey Avenue, SE  
Washington, DC 20590

MAR 13 2015

Mr. Robert Miller  
Product Safety Specialist II  
Product Regulatory Services  
Evonik Corporation  
299 Jefferson Road  
Parsippany, NJ 07054

Ref. No.: 14-0212

Dear Mr. Miller,

This is in response to your November 3, 2014 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) in reference to a previous letter of interpretation Ref. No. 14-0021 relating to the applicability of the HMR to hazardous materials aboard an aircraft that overflies U.S. airspace. Specifically, you ask if the HMR apply to an air shipment prepared in accordance with international regulations without the intent of overflying the U.S., but unbeknownst to the offeror, does overfly U.S. airspace due to an unplanned change in flight path.

The answer to your question is yes, the provisions of the HMR do apply. As stated in § 171.1(c), the HMR applies to transportation of a hazardous material in commerce and to each person who transports a hazardous material in commerce. The definition of "commerce" in § 171.8 is trade or transportation in the jurisdiction of the United States. The jurisdiction of the United States includes the airspace. The offering for transportation and acceptance of hazardous materials packaged in accordance with the International Civil Aviation Organization's (ICAO) Technical Instructions for transport to, from and within the U.S. is authorized under Subpart C of Part 171 of the HMR.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane Pfund  
International Standards Coordinator  
Standards and Rulemaking Division

Wiener  
\$171.24  
ICAO  
14-0212



**EVONIK**  
INDUSTRIES

Standards and Rulemaking Division  
Pipeline and Hazardous Materials Safety  
Administration  
Attn: PHH-10  
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November 3, 2014

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**RE: Interpretation for HazMat overflying the U.S.**

Dear Madam / Sir:

In reference to the interpretation letter Ref. No.: 14-0021, please clarify if the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to the air transportation of hazardous material apply to offerors transporting hazmat overflying U.S. airspace due to an unforeseen flight path change. If an air shipment is prepared in accordance with international regulations without the intent of overflying the U.S. but the flight path changes unbeknownst to the offeror, does the HMR apply if the new path flies over the U.S? Are there any exceptions for this scenario?

Thank you for your time and guidance.

Sincerely yours,

Robert Miller  
Product Safety Specialist II  
Product Regulatory Services  
USA

**Dodd, Alice (PHMSA)**

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**From:** Ciccarone, Michael CTR (PHMSA)  
**Sent:** Monday, November 03, 2014 2:31 PM  
**To:** Hazmat Interps  
**Subject:** FW: HazMat Overflying the US Letter of Interpretation Request  
**Attachments:** Hazmat overflying US Letter of Interp.pdf

Shante/Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

**From:** [robert.miller@evonik.com](mailto:robert.miller@evonik.com) [<mailto:robert.miller@evonik.com>]  
**Sent:** Monday, November 03, 2014 11:52 AM  
**To:** INFOCNTR (PHMSA)  
**Cc:** [kenneth.miller@faa.gov](mailto:kenneth.miller@faa.gov)  
**Subject:** HazMat Overflying the US Letter of Interpretation Request

Greetings,

Attached please find a request for a letter of interpretation regarding hazmats overflying the US without the offeror's knowledge.

Thanks,

Rob

**Robert Miller**  
Product Safety Specialist II

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