



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

Mr. Garnett Meador
Mace Tactical Solutions, LLC
4400 Carnegie Avenue
Cleveland, OH 44103

JUL 28 2015

Ref: No: 15-0110

Dear Mr. Meador:

This is in response to your June 8, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding the use of a manufacturer's EX number to ship munitions. Specifically you request confirmation that munitions purchased from a manufacturer and marked with your company name can be shipped using the explosive approval (EX approval) assigned to the manufacturer.

In your email, you state that your company purchases, but does not take physical possession of, munitions which have been classed and approved by the Pipeline and Hazardous Materials Safety Administration (PHMSA) in accordance with § 173.56. The manufacturer will mark the munitions with your company brand and ship them to your customers. The manufacturer will not change the munitions for which the EX approval was issued.

Your understanding is correct. Based on the information you provided, a new approval is not required. The munitions may be transported using the same EX approval as that given to the manufacturer. A new EX approval would be required if there is any change that would result in the munition meeting the defining criteria of a new explosive. A new explosive is an explosive produced by a person who has not previously produced that explosive, or 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. PHMSA will assign an EX approval specific to that explosive and prescribe a suitable packing method.

I trust this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

Antonelli
173.56(J)
Explosive
15-0110

From: Geller, Shelby CTR (PHMSA)
Sent: Monday, June 08, 2015 3:21 PM
To: Hazmat Interps
Subject: FW: Requesting Formal Interpretation

Hi Shante and Alice,

Attached is a request for a formal letter of interpretation. Mr. Meador spoke with Jordan Rivera in the HMIC.

Thanks,
Shelby

From: Garnett Meador [mailto:Garnett@mace.com]
Sent: Monday, June 08, 2015 10:15 AM
To: Garnett Meador; INFOCNTR (PHMSA)
Subject: Requesting Formal Interpretation

Dear Department of Transportation –

I have had several conversation with the info center and want to get a formal interpretation.

I am with a company called Mace Tactical Solutions LLC (“Mace”). Mace recently entered into a contract with a manufacturer of less lethal munitions (“Manufacturer”). The Manufacturer is licensed by the BATFE as manufacturers of firearms and explosives. Mace is properly licensed with the BATFE so that it can sell the munitions and have the munitions marked with the Mace brand (that is, private labeled by the Manufacturer). Mace itself will NOT engage in any manufacturing. Every munition will continue to be manufactured by Manufacturer. The munitions manufactured for Mace will be the same products, with no changes. The products manufactured are shipped under a 1.4 Classification and Manufacturer previously applied for and received EX numbers from the DOT (PHMSA) for all munitions. Mace will be purchasing these munitions from Manufacturer and has the exclusive right to sell the munitions in the US. Mace will take orders from law enforcement and product will be drop-shipped by Manufacturer from the Manufacturer’s facility to the law enforcement department buyer.

By way of summary: (i) the munitions will be manufactured by the Manufacturer, as they always have been; (ii) the muntions will be private labeled with the Mace brand name; (iii) the munitions will never be physically in the possession of Mace; (iv) the munitions will never leave the Manufacturer’s facility, until shipped to the law enforcement department purchaser; (v) the Manufacturer applied for and received EX number for the munitions in question; (vi) product (munitions) for which the EX numbers were granted is not changing in any manner; and (vii) munitions will be drop-shipped from the Manufacturer’s facility, by the Manufacturer, to the law enforcement department purchaser.

From Mace’s conversations with the DOT and our review of laws and DOT clarifications (including the clarification included below), it appears clear that the munitions in question can be shipped under the EX Numbers already issued by the DOT to the Manufacturer. However, since Mace will technically become the owner of the munitions (although Mace will never take physical possession of the munitions) and the munitions will be marked under the Mace brand, we want to confirm that new EX numbers will not have to be applied for by Mace and that the munitions can be shipped under the existing EX numbers.

Thank you,

Garnett R. Meador, SVP & General Counsel

Mace Tactical Solutions LLC | Midtown | 4400 Carnegie Avenue | Cleveland, OH 44103

direct 440.424.5393 | fax 440.424.4156

www.mace.com »

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From: Garnett Meador
Sent: Thursday, May 21, 2015 7:31 PM
To: infocntr@dot.gov
Subject: Fwd: Jordan

Sent from my iPhone

Begin forwarded message:

From: Garnett Meador <Garnett@mace.com>
Date: May 21, 2015, 3:01:21 PM EDT
To: "infocntr@dot.com" <infocntr@dot.com>
Subject: Jordan

[Federal Register Volume 77, Number 3 (Thursday, January 5, 2012)]
[Rules and Regulations]
[Pages 429-431]
From the Federal Register Online via the Government Printing Office
www.gpo.gov
[FR Doc No: 2011-33853]

II. Background

The transportation of an explosive (fireworks device) requires an EX classification approval issued by PHMSA, commonly referred to as an EX number. The EX number is a unique

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identifier that indicates the device has been classed and approved for transportation in the U.S., and is specific to a particular device as specified in 49 CFR 173.56(j) and the American Pyrotechnic Association (APA) Standard 87-1.

PHMSA understands that it is a common industry practice for fireworks devices produced by one manufacturer to be marketed and sold under different trade names. Further, in the past, each retailer, importer or distributor, in addition to the manufacturer, applied for and received an EX classification approval for the identical fireworks device. This practice resulted in PHMSA processing multiple applications and issuing multiple approvals for the same fireworks

device. This redundant and burdensome process did not promote the safe transportation of explosives (fireworks devices); instead, it impeded the conduct of business for both the fireworks industry and PHMSA.

On June 29, 2011, we issued a clarification of our policy to issue fireworks classification approvals only to fireworks manufacturers, and accept fireworks classification applications only from fireworks manufacturers or their U.S. designated agents. This policy clarification was intended to restate the requirements of the Hazardous Materials Regulations (HMR), enhance safety by ensuring accountability of manufacturing, and reducing the number of duplicate applications and EX classification approvals being issued for identical fireworks