



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

JUN 09 2009

Mr. David M. Schwartz  
Counsel to TK Holdings, Inc.  
Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036

Ref. No. 09-0061

Dear Mr. Schwartz:

This responds to your March 19, 2009 letter submitted on behalf of your client, TK Holdings, Inc., concerning requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) regarding the transportation of an unapproved explosive for developmental testing. Specifically, you ask for clarification of the meaning of the term "explosives testing range" as used in § 173.56(e) of the HMR.

According to your letter, TK Holdings manufactures air bag inflators at one facility and intends to transport them as an unapproved explosive to another facility for developmental testing. The unapproved airbag inflators will be offered for transportation in conformance with all applicable HMR requirements for Division 1.1 explosives, transported in a motor vehicle operated by an employee of TK Holdings, and accompanied by a person who is qualified to handle them. Once developmental testing is successfully completed, the airbag inflators will be transported to an authorized testing and examination agency under the procedures specified in § 173.56(d).

You are correct that the HMR do not specifically define "explosive testing range." The term refers to a location or facility where an explosive may safely be tested to determine its explosive properties and appropriate classification. It is the opinion of this Office that the testing facility you describe in your letter is an "explosive testing range" as that term is used in § 173.56(e).

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

March 19, 2009

*Confidential*

**BY HAND DELIVERY**

Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
Att'n: PHH-10  
U.S. Department of Transportation  
East Building  
1200 New Jersey Avenue, SE  
Washington, DC 20590-0001

Stevens  
§173.56  
Explosives  
09-0061

**RE: Request for Interpretation Letter of 49 C.F.R. §173.56(e)**

To Whom It May Concern:

On behalf of TK Holdings, Inc. ("TK Holdings"), located at 69700 Powell Road, Armada, Michigan 48005, I am requesting, pursuant to 49 C.F.R. §105.20(a)(4), an interpretation on the definition of the term *testing range* in 49 C.F.R. §173.56(e).<sup>1</sup>

TK Holdings is a manufacturer of automobile safety systems and components. The company has two facilities within 28.4 miles of each other – one in Armada, Michigan and the other in Auburn Hills, Michigan.<sup>2</sup> The Armada facility is primarily a research and development facility that includes administrative offices, and the Auburn Hills facility is

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<sup>1</sup> Transportation of unapproved explosives for developmental testing. Notwithstanding the requirements of paragraph (b) of this section, the owner of a new explosive that has not been examined or approved may transport that new explosive from the place where it was produced to an explosives testing range if—

- (1) It is not a primary (1.1A initiating) explosive or a forbidden explosive according to this subchapter;
- (2) It is described as a Division 1.1. explosive (substance or article) and is packed, marked, labeled, described on shipping papers and is otherwise offered for transportation in conformance with the requirements of this subchapter applicable to Division 1.1;
- (3) It is transported in a motor vehicle operated by the owner of the explosive; and
- (4) It is accompanied by a person, in addition to the operator of the motor vehicle, who is qualified by training and experience to handle the explosive.

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both a prototype testing/research and development facility and administrative office. Staff at these two facilities must work closely together when developing or redesigning inflators to meet customer specifications. Each facility's equipment differs to meet that location's particular objective. For example, the Armada facility has a gas filling machine and other equipment used to build prototype inflators, while the Auburn Hills site has facilities for testing of various prototypes – including inflators, airbag modules and seatbelts.

Out of an abundance of caution, TK Holdings would like clarification on the definition of the term *testing range* in §173.56(e) to determine whether it can transport between its Armada facility and its Auburn Hills facility for developmental testing unapproved air bag inflators containing pressure vessels filled with Division 2.2 compressed gas. When transporting the prototype airbag inflators between these two facilities, TK Holdings would ensure that the 49 C.F.R. §173.56(e) requirements are satisfied in order to achieve a level of safety equal to or exceeding that contemplated by the provision:

- (1) The proposed devices would not be primary (1.1A initiating) explosives;<sup>3</sup>
- (2) TK Holdings would describe, pack, mark, label, describe on shipping papers and otherwise offer for transportation the airbag inflators in conformance with the Division 1.1 requirements;

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<sup>2</sup> The Armada testing facility is located at 2500 Takata Drive, Auburn Hills, Michigan 48326.

<sup>3</sup> Finished airbag inflators are usually classified and approved as Class 9, as provided for in 49 CFR §173.166.

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- (3) TK Holdings would transport the inflator in a motor vehicle operated by TK Holdings; and
- (4) TK Holdings would have, in addition to the motor vehicle operator, a person accompany the inflator who is qualified by training and experience to handle it.

We note that the term *testing range* is not explicitly defined in the regulations, but that it is distinguished from an approved examination agency as described in §173.56(d). In the absence of a specific definition for the term *testing range*, we believe that a practical definition for the term would be – a designated area where explosives testing may be safely conducted by appropriately trained personnel and where potential hazards arising from reactive chemicals and explosives are minimized. We note further that the developmental testing to be performed at a testing range is intended to allow the manufacturer to prepare or develop its inflators to the point where a sample can be sent to a DOT-approved agency for examination and classification. The Auburn Hills facility meets this definition of a testing range.

The Auburn Hills facility is not a manufacturing site; although it does house some administration and field support personnel, the facility is primarily designed to conduct engineering and research and development testing for the company's seat belt and airbag divisions. For prototype inflators, the Auburn Hills facility contains lab and testing areas that include temperature and other environmental testing chambers, an impactor lab and related facilities. When testing is conducted in the lab areas, the entry doors are secured

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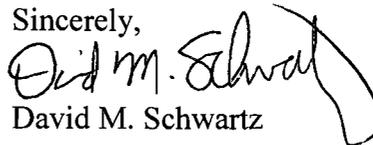
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with magnetic locks to restrict entry. Operators also have the capability of safely aborting tests and un-securing doors as needed.

Because it is a developmental testing site, the Auburn Hills facility only receives completed inflators for research and development use and testing and the inflators are generally utilized (deployed) within one or two weeks of receipt. While at the facility, prototype inflators are stored in a secured metal cage area outside of the testing sector.

As noted, the testing conducted at TK Holdings' Auburn Hills facility is part of the research and development process that ultimately yields production samples to be transported to an approved agency for examination and classification. Because its Auburn Hills facility is a designated developmental testing site, TK Holdings believes that it should qualify as a *testing range* under 49 C.F.R. §173.56(e).

Thank you for considering our request. Please contact me if you have any questions.

Sincerely,  
  
David M. Schwartz

Thompson Hine LLP  
1920 N Street, NW, Suite 800  
Washington, DC 20036  
(202) 263-4170

*Counsel to TK Holdings, Inc.*

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