



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

January 5, 2018

Shane Kelley
Acting Director
Standard and Rulemaking (PHH-10)
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Dear Mr. Kelley,

Last year the Commercial Vehicle Safety Alliance (CVSA) Hazardous Materials Committee expressed their concern over language in Interpretation 16-0088. This interpretation addresses load securement.

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the United States, by providing guidance and education to enforcement, industry and policy makers.

After reviewing the interpretation and attached photographs, all inspectors in the committee meeting agreed that the load in question is adequately secured. However, Interpretation 16-0088 leads a roadside inspector to believe that a hazardous materials shipment is not secure unless there is no movement. This is the position one jurisdiction is taking and it's having an adverse effect on carriers who have good safety records and strive to fully comply with the regulations.

The CVSA Hazardous Materials Committee addressed this issue in 2008 based on an Issue Request for Action received from a member jurisdiction. The request was a result of §177.834(a) not being uniformly enforced. This occurred following a change in the wording of the code. The word "movement" was changed to "shifting" in HM-223; however, there is no definition of shifting in §171.8. As a result, the Alliance added a NOTE to the 2009 North American Standard Out-of-Service Criteria in Part III, Item 7. LOADING AND SECUREMENT, a. Blocking and Bracing, which states "Any shifting likely to adversely affect HM/DG package integrity, under conditions normally incident to transportation."

We request Interpretation 16-0088 be re-addressed, so it can be uniformly enforced by roadside inspectors and the motor carrier industry has a clear understanding of the requirements.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the opportunity to comment on this proposal and the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Collin B. Mooney'.

Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

SEP 16 2016

Mr. Wes Pace
Director, Hazardous Materials Compliance
Landstar Transportation Logistics, Inc.
13410 Sutton Park Drive, South
Jacksonville, FL 32224

Reference No. 16-0088

Dear Mr. Pace:

This letter is in response to your May 11, 2016 email, letter, and two photographs requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to loading and securing pallets of hazardous materials. Specifically, you ask if the loading and securement packing method you describe complies with the intent of § 177.834(a).

You state your transportation scenario, as further demonstrated in the attached photographs, is as follows:

- Four drums are loaded on one pallet,
- Drums on the pallet are shrink-wrapped to the pallets,
- Heavy cardboard is placed on top of each set of four drums banded to a pallet,
- An even number of these pallets are loaded side-by-side in a freight trailer,
- Pallets are loaded in the freight container with approximately 3–4 inches of void area between them,
- Pallets closest to the freight container door are secured with two straps,
- This loading and securement method makes it difficult, if not impossible, to nail a 2 x 4 inch blocking to the freight container floor in the void area, and
- This blocking method makes it highly unlikely for these drums to shift or fall to the extent that they become damaged.

It is the opinion of this Office that the transportation scenario you provided does not comply with the intent of § 177.834(a). The three to four inches of space between pallets in the freight container loading and securement method you describe provides a foot or more of space in which the end pallets can shift during transportation. Section 177.834(a) requires any hazardous material (hazmat) package that is not permanently attached to a motor vehicle to be secured against shifting, including relative motion between packages, within the vehicle on which it is being transported under conditions normally incident to transportation (e.g., vehicle starting, stopping, and cornering; accident avoidance; and varied road conditions).

Thus, the securement of hazmat packages requires that such packages do not shift when experiencing these conditions. Part 393, Subpart I of the Federal Motor Carrier Safety Regulations (49 CFR Parts 300-399) contains general requirements that address protection against shifting and falling cargo.

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

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Edmonson
§177.834(a)
General Requirements
16-0088

Dodd, Alice (PHMSA)

From: Rivera, Jordan CTR (PHMSA)
Sent: Wednesday, May 11, 2016 4:10 PM
To: Hazmat Interps
Subject: FW: Interpretation Request
Attachments: Interpretation Request Securement.docx; Load securement Pictures.pdf

Hi Shante/Alice,

Please submit this for a letter of interpretation. Please let me know if you have any questions.

Thanks,
Jordan

From: Pace, Wes [<mailto:wpace@landstar.com>]
Sent: Wednesday, May 11, 2016 9:44 AM
To: PHMSA HM InfoCenter
Subject: Interpretation Request

Please find attached an interpretation request.

Thanks,
Wes Pace
Landstar Transportation Logistics, Inc.
Director, Hazardous Materials Compliance
Office- (904) 390-4815
Email- wpace@landstar.com

Think twice before you press "print." Go Green!

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Landstar Transportation Logistics, Inc.
13410 Sutton Park Drive, South
Jacksonville, FL 32224
904 398 9400

To: U.S. DOT PHMSA Office of Hazardous Materials Standards
From: Wes Pace
Director, Hazardous Materials Compliance
Date: May 11, 2016
Subject: Interpretation Request

Dear Sir:

I'm requesting an interpretation and clear understanding of 177.834(a) and when the intent of the rule has been met with a specific loading method and the securement of pallets in my scenario. I understand regulation is silent on what method must be used and also that intent of securement is to prevent shifting, including relative motion between packages within the transport vehicle under conditions normally incident to transportation.

My scenario, as shown in attached pictures is:

- 4 drums loaded per pallet. Drums are shrink wrapped to the pallets and also have heavy cardboard placed on top of each set of 4 drums which is then banded to the pallets
- An even number of pallets are then loaded side by side in the trailer.
- Once pallets are loaded, there is roughly 3-4 inches of void area located in-between the pallets
- The pallets are then secured with 2 straps on the rear of the load

Based on this loading and securement method, it's difficult and almost impossible to have 2 X 4 blocking nailed to the floor in the small void area. Under conditions normally incident to transportation (vehicle starting stopping, cornering, accident avoidance and varied road conditions) the possibility of these drums shifting or falling to the extent that the drums could be damaged are highly unlikely.

One state interprets 177.834(a) as meaning any void are must be filled or pallets blocked to prevent shifting of any amount and that this referenced loading and securement method is in violation of the rule.

Based on the scenario provided, would the true intent of 177.834(a) be met?

Sincerely,

Wes Pace
Landstar Transportation Logistics, Inc.
Director, Hazardous Materials Compliance
Office- (904) 390-4815



