



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

OCT 01 2014

Kim A. Thorsen
Deputy Assistant Secretary
Public Safety, Resource Protection and Emergency Services
United States Department of the Interior
Washington, DC 20240

Ref. No. 14-0145

Dear Ms. Thorsen:

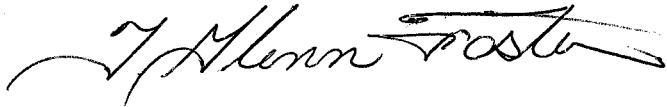
This responds to your June 13, 2014 request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if Taser Brand conducted electrical weapons (CEW) and CEW cartridges are authorized by the HMR to be carried aboard a passenger-carrying aircraft by armed law enforcement officers (LEO) under the authority provided in 49 CFR 1544.219. You are concerned because Part 8, § 1.1.1 of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) was recently revised to prohibit electro-shock weapons carried by passengers and crew members, U.S. airlines are now refusing to allow armed LEOs the ability to carry such weapons aboard passenger-carrying aircraft.

Provided the conditions of 49 CFR 1544.219 are met, an armed LEO is authorized under § 173.54(f) of the HMR to carry a loaded firearm aboard a passenger-carrying aircraft. Under § 175.1, such authorization applies to any aircraft of U.S. registry anywhere in air commerce. However, unlike a loaded firearm, an electro-shock weapon may contain explosive charges, compressed gases, and lithium batteries. No exceptions for the carriage of electro-shock weapons by LEOs are provided under the HMR.

Unlike Part 8 of the ICAO Technical Instructions, § 175.10 of the HMR only specifies what hazardous materials are permitted to be transported by a passenger or crew member. In other words, unless an exception is explicitly provided by the HMR (e.g., an armed LEO traveling under 49 CFR 1544.219), all hazardous materials are prohibited in passenger or crew member baggage or when carried on one's person.

Thank you for bringing this to our attention. We recognize the importance of the duties performed by LEOs and we intend to address the issue in a future rulemaking action. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, reading "T. Glenn Foster". The signature is written in a cursive style with a large, sweeping initial "T" and a long, horizontal flourish extending to the right.

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

Stevens
175.10
Exceptions
14-0145



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUN 13 2014

U.S. Department of Transportation
Pipeline and Hazardous Materials Administration
Attention: Patricia Klinger, Deputy Director
Governmental, International and Public Affairs
1200 New Jersey Avenue, SE
Mail Stop E27-330
Washington, DC 20590

[Via e-mail to Patricia.Klinger@dot.gov]

Dear Ms. Klinger:

We understand that your agency issues Hazardous Materials Regulations and that these regulations have defined electroshock weapons (further identified as Taser Conducted Energy Weapons) as dangerous goods which are prohibited on commercial aircraft within the United States.

This regulation is causing a significant hardship for the Department of the Interior in that as the landowner and caretaker of 23% of the United States, the Department has 4000 federal law enforcement officers entrusted with protection of those public lands and providing public safety for the millions of visitors to national parks, wildlife refuges, and other public lands. Our officers are all issued and are required to carry firearms as well as secondary defensive weapons which include Tasers. With our diverse oversight of public lands, our officers and special agents often use commercial airlines when traveling to do their jobs. The officers are allowed by law to carry firearms on their person while traveling on commercial airlines, yet are not allowed to carry their government-issued Tasers on their person or in checked baggage. This regulation is putting federal officers of this Department as well as all other agencies at risk by not having access to their required defensive equipment both while flying and at their travel destinations.

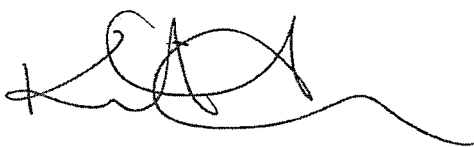
Also, it should be noted that Department of the Interior officers use their Tasers at least 100 times each year. Use of Tasers during critical law enforcement situations often means that officers are able to quickly defuse critical situations without having to resort to deadly force. This clearly saves lives, and preventing those officers from traveling with their issued defensive equipment will put lives in jeopardy.

We respect your role in keeping airline travel safe. We have reviewed your documentation

reflecting concerns with Tasers containing lithium batteries and nitrogen firing mechanisms. Our officers have been carrying and using Tasers for 10 years with zero safety issues. We believe that Tasers and their internal components are safe when carried by law enforcement officers on their persons onboard aircraft in conjunction with their firearms as well as when properly packed in baggage. We hope that you can review this regulation to provide a remedy that will provide law enforcement officers with an exception to allow carriage of Tasers when traveling on commercial airlines.

Thank you for your prompt attention to this critical matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kim A. Thorsen', with a long horizontal flourish extending to the right.

Kim A. Thorsen
Deputy Assistant Secretary
Public Safety, Resource Protection and Emergency Services
(202) 208-5773

Boothe, Deborah (PHMSA)

From: Boothe, Deborah (PHMSA)
Sent: Tuesday, August 26, 2014 10:38 AM
To: DerKinderen, Dirk (PHMSA); Benedict, Robert (PHMSA)
Subject: FW: Tasers on planes
Attachments: 14-0127 (FAA edits).docx

Importance: High

Good morning!

Attached are the FAA edits on this interp letter Michael was reviewing for me! Michael has a couple of identical letters from different requesters, so, we now have a uniform response for all three letters! I will be moving this 14-0127 letter along for your review today!

Have a great day!

Debbie

From: Stevens, Michael (PHMSA)
Sent: Tuesday, August 26, 2014 10:34 AM
To: Boothe, Deborah (PHMSA)
Subject: FW: Tasers on planes

FYI

From: Richard.Bornhorst@faa.gov [<mailto:Richard.Bornhorst@faa.gov>]
Sent: Friday, August 22, 2014 1:29 PM
To: Stevens, Michael (PHMSA)
Subject: RE: Tasers on planes

Michael,

Attached are my edits. I think we are on the same page with this. In terms of a possible regulatory action, I guess we can look at the next available miscellaneous rule or is HM-218H still available? If you have any questions let me know. I am here until 4pm.

Regards,

Rick

From: Stevens, Michael (PHMSA)
Sent: Friday, August 22, 2014 12:43 PM
To: Richard Bornhorst
Subject: FW: Tasers on planes
Importance: High

Rick—Since you are out next week, I wanted to follow-up to see if you had a chance to look at my draft interp on electro-shock weapons? Thanks again.

Federal Aviation Administration
Office: (202) 267-9443
Cell: (202) 731-9985

From: Lawler, Gregory [mailto:greg_lawler@ios.doi.gov]
Sent: Wednesday, August 20, 2014 3:25 PM
To: Richard Bornhorst
Subject: Tasers on planes

Richard,

Following up, do you have any status on this issue?

Many thanks,
Greg

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Greg Lawler
Chief, Operations and Policy
Office of Law Enforcement and Security
Department of the Interior
Washington, D.C.
(202) 208-1570
Greg_Lawler@ios.doi.gov

Boothe, Deborah (PHMSA)

From: Stevens, Michael (PHMSA)
Sent: Wednesday, September 03, 2014 10:30 AM
To: Muller, Christopher; Muller, Christopher
Cc: Benedict, Robert (PHMSA); Suchak, Neal (PHMSA); DerKinderen, Dirk (PHMSA); Foster, Glenn (PHMSA); Klinger, Patricia (PHMSA); Boothe, Deborah (PHMSA)
Subject: RE: Electro-shock weapons carried by LOEs on aircraft

Chris—That was a great explanation. That said, we will issue the letters to DOI, DOJ (BATF), and Taser with your revision. Thanks again!

Michael

From: Muller, Christopher [mailto:Christopher.Muller@ole.tsa.dhs.gov]
Sent: Wednesday, September 03, 2014 10:06 AM
To: Stevens, Michael (PHMSA); Muller, Christopher
Cc: Benedict, Robert (PHMSA); Suchak, Neal (PHMSA); DerKinderen, Dirk (PHMSA); Foster, Glenn (PHMSA); Klinger, Patricia (PHMSA)
Subject: RE: Electro-shock weapons carried by LOEs on aircraft

Michael,

There are two aspects that I believe are central to the issue, one is the electro-shock device and that the change should be broadly written to encompass all (within reason) devices rather than giving Taser an unfair advantage; and two that other issued equipment (e.g. flashlights, sighting devices, night vision, etc) that may contain hazmat are likewise granted an exemption. The pressurized devices I refer to is simply addressing non-aerosol dispersants of chemical or natural irritants and has no reference to the nitrogen charge in the Taser cartridge.

Thanks again

Chris

REGARDS,

Christopher Muller

SUPERVISORY FEDERAL AIR MARSHAL
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From: michael.stevens@dot.gov [<mailto:michael.stevens@dot.gov>]
Sent: Thursday, August 28, 2014 12:27 PM
To: Muller, Christopher
Cc: robert.benedict@dot.gov; Neal.Suchak@dot.gov; Dirk.DerKinderen@dot.gov; Glenn.Foster@dot.gov; patricia.klinger@dot.gov
Subject: Electro-shock weapons carried by LOEs on aircraft
Importance: High

Good Afternoon Mr. Muller,

I've attached three letters related to electro-shock weapons (e.g., Tasers) and the applicability of the Federal Hazardous Materials Regulations (49 CFR Parts 171-180) on carriage by a Law Enforcement Officer (LEO) under the authority provided by 49 CFR 1544.219. All three letters are identical and represent the Department's (FAA and PHMSA) position on the matter. We wanted to be certain our assumptions were correct. Thanks in advance for your time.

Regards,

Michael

Michael Stevens
Transportation Specialist (Regulations)
Standards and Rulemaking Division
Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
US Department of Transportation
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