

# Railroad Safety Advisory Committee HM-223 Overview



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## Overview

### Applicability of the HMR to Loading, Unloading, and Storage

- Final Rule published October 30, 2003
- Effective October 1, 2004

#### Goals:

- Specifies applicability of HMR to specific functions related to handling, movement, and storage of hazmat
- Promote consistent application of safety requirements (HMR, EPA, OSHA, ATF, state/local)
- Reduce confusion and enhance compliance



## Effect of the Final Rule

- Adds definitions
- Lists specific functions/activities not subject to HMR  
(This is the first time we've said what we don't cover!)
- Adds language to clarify applicability
- Notes potential applicability of other Federal, state, or local regulations



## New Definitions

- Pre-transportation function
- Transportation
- Movement
- Loading incidental to movement
- Unloading incidental to movement
- Storage incidental to movement
- Private Track



## Functions Subject to HMR

- The Five Preempted Subjects
  - Classification
  - Package Selection and Marking
  - Documentation
  - Reporting Releases
  - Packaging Design/Manufacture/Qualification
- Pre-transportation functions
- Transportation functions



## Functions Not Subject to HMR

- Storage at offeror facility
- Unloading performed by consignee
- Storage after delivery to consignee
- Rail and motor vehicle movements within contiguous facility boundary
- Transportation by government personnel for noncommercial government purpose
- Transportation for noncommercial purpose by private individual in private motor vehicle
- Transportation/delivery of mail



## Pre-Transportation Functions

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Functions that are essential to prepare a shipment for safe movement.

The HMR apply to pre-transportation functions to the exclusion of other Federal or state/local agencies



## Pre-Transportation Functions

### Examples:

- Determining hazard class
- Selecting packaging
- Marking, labeling, affixing placards
- Shipping documentation
- Loading functions performed by the shipper that directly affect HM transportation (e.g. filling limits or blocking and bracing)





## Transportation

Movement of property and loading, unloading, or storage incidental to movement.

Begins when carrier takes possession for purpose of moving it and continues until the package is delivered to destination indicated on shipping document

HMR apply to transportation functions to the exclusion of other Federal or state/local agencies



## Movement

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The physical transfer of hazardous materials from one geographic location to another by rail car, aircraft, motor vehicle, or vessel



## Loading incidental to movement

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### Packaged or Containerized HM:

Loading, by or in the presence of carrier personnel, into a transport vehicle for the purpose of movement.

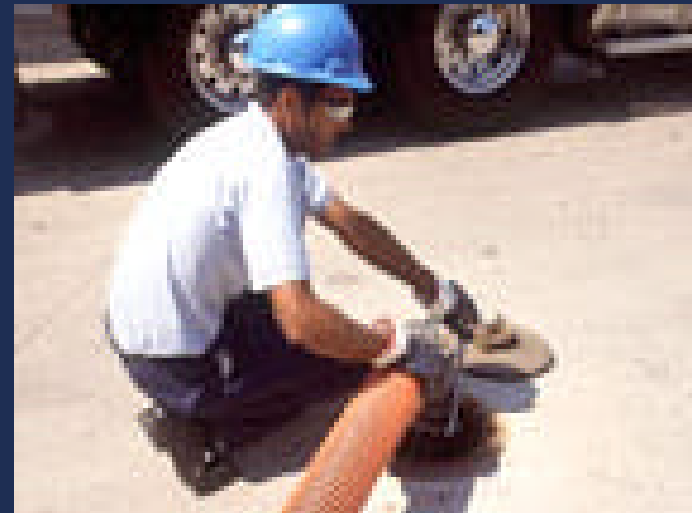
### Bulk Packaging:

Filling the packaging for the purpose of movement.



## Unloading incidental to movement

Those function performed by the carrier or before the carrier leaves the facility.





## Storage incidental to movement

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Storage of transport vehicle, freight container, or package between pickup and delivery to destination indicated on shipping document

Includes storage of rail cars on private track

Includes storage at intermodal transfer facilities and through shipments stored at marine terminals and carrier facilities



## How Does This Impact Me?

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Private track definition has significantly changed! (It is now in line with Part 209)

The **Key Element** is control over movement and infrastructure rather than the presence of a commercial relationship (lease agreement).

Future initiative needed to address related safety and emergency response issues.



## Relationship of HMR to OSHA

- Continued shared jurisdiction
- HMR apply to pre-transportation and transportation functions; OSHA regulations apply to persons and facilities
- OSHA regulations apply after transportation ends (e.g., consignee unloading)
- Preemption provisions continue to apply to state/local requirements



## Relationship of HMR to EPA

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- Continued shared jurisdiction
- EPA requirements may apply at facilities where pre-transportation or transportation functions are performed
- Preemption provisions continue to apply to state/local requirements





## Relationship of HMR to ATF

- ATF statute includes exception for aspects of explosives transportation regulated by DOT
- ATF requirements may apply at facilities at which pre-transportation functions are performed



## Preemption and HM-223

- Cases will continue to be decided on a case-by-case basis using criteria in Federal hazmat law
- We may preempt non-federal requirements even when we have not exercised authority
- State and localities may impose requirements for functions not covered by HMR or Federal hazmat law in certain instances.



## Resources

Web Site:

<http://www.fra.dot.gov>

Hazardous Materials Guidance

Contacts:

Any HM Staff Member or  
HMASSIST@fra.dot.gov

