



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

MAY - 8 2006

400 Seventh Street, S.W.  
Washington, D.C. 20590

Mr. Steven Charles Hunt  
ShipMate, Inc.  
18436 Hawthorne Blvd, Suite 201  
Torrance, CA 90504

Ref. No.: 06-0041

Dear Mr. Hunt:

This is in response to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if § 171.12(b)(2) authorizes a material originating as a hazardous material in Denmark to be reoffered for transportation in the United States when described, marked, and labeled in accordance with the International Maritime Dangerous Goods (IMDG) Code. You indicate the material will be reoffered for transportation within the United States as a non-regulated material in accordance with the exception provided in Special Provision 47.

Section 171.12(b)(2) authorizes a material that is classed, packaged, marked, labeled, placarded, described, stowed and segregated, and certified in accordance with the IMDG Code to be offered for transportation and transported in the United States under certain conditions. To take advantage of this provision, all or part of the transportation must be by vessel (§ 171.12(b)(1)).

In your situation, assuming the final destination is a storage facility in the United States, § 171.12(b)(1) authorizes a vessel shipment prepared in accordance with the IMDG Code requirements and originating in Denmark to be transported into the United States and then transferred to the storage facility indicated on the shipping paper by any mode of transportation (i.e., air, highway, rail, or vessel). However, once the shipment reaches the storage facility, you may not reoffer the material for ground or air transportation in the United States unless the shipment conforms to applicable HMR requirements.

Special Provision 47 excepts small shipments of mixtures of solids and flammable liquids from regulation under the HMR under certain conditions. Packages transported in accordance with Special Provision 47 need not be marked or labeled. However, nothing in the HMR prohibits such packages from being marked or labeled provided the marks and labels are consistent with the hazard of the material contained in the package. In the situation you describe, it appears the hazardous material is properly represented by the marks and labels affixed to the package in accordance with IMDG Code requirements. Therefore, you may re-offer the material for transportation within the United States in accordance with Special Provision 47 without removing the marks or labels from the



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package. You should be aware, however, that because your shipment will not be accompanied by a shipping paper, the marks and labels on your package may cause delays or otherwise frustrate its transportation. To avoid this problem, we suggest the following:

1. Remove, obliterate, or securely cover the marking and labeling and take full advantage of the exception provided by Special provision 47; or
2. Leave the marking and labeling in place and ship the material in accordance with the HMR without taking advantage of the exception provided by Special Provision 47.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



Edward T. Mazzullo

Edward T. Mazzullo  
Director, Office of Hazardous Materials Standards



Supko  
\$173.22  
Shipper's  
Responsibility  
06-0041

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February 1, 2006

Mr. Edward T. Mazzullo  
Research and Special Programs Administration  
U.S. Department of Transportation  
400 Seventh Street, SW  
Washington, DC 20590-0001

Subj: Request for Letter of Interpretation

Dear Mr. Mazzullo:

Steven Charles Hunt, ShipMate, Inc., on behalf of the Petitioner, Weber-Stephen Products Co., 200 East Daniels Road, Palatine, IL 60067-6266, phone (800) 446-1071, is submitting this request.

The Petitioner respectfully requests a letter of interpretation regarding the marking and labeling of a product which is considered "regulated" for transport by the manufacturer in Denmark, yet is not regulated for transport in the United States.

Title 49 CFR, Code of Federal Regulations, §171.12(b)(2) permits substances and articles that are not regulated by 49 CFR subchapter C, but which are marked and labeled according to the International Maritime Dangerous Goods (IMDG) Code may be shipped within the United States without having to remove the marks and labels.

The Petitioner requested an interpretation regarding the classification of the products that it currently offers for transport within the United States. The petitioner believes that the material is not regulated for transport. The Research and Special Programs Administration (RSPA) agreed in their Letter of Interpretation. (Enclosure 1)

However, the Petitioner also receives material from a manufacturer in Denmark. Although the Petitioner believes that the IMDG Code exempts the material for transport by special provision, the manufacturer insists that the product is "regulated" for transport in Denmark and for export. Accordingly, the manufacturer marks and labels each package as such. The Petitioner sent a copy of the enclosed RSPA Letter of Interpretation to both the manufacturer and the Danish Maritime Authority (DMA). The DMA response made note of the manufacturer's classification yet had no comment on the U.S. interpretation. It appears that the Danish Maritime Authority then recognizes the material as a "regulated" material for transport under the provisions of the IMDG Code for export from Denmark. (Enclosure 2)

The Petitioner receives these goods as "regulated" materials but intends to reoffer them for transport within the United States as excepted by 49 CFR §172.102, Special Provision 47. However, it is prohibitively expensive to repackage the materials for transport within the United States. Accordingly, the petitioner requests an interpretation of 49 CFR §171.12(b)(2) which authorizes these materials to be offered for transport in the U.S. when described, marked and labeled in accordance with the IMDG Code.

Presumably this provision exists to permit such substances to be imported into the United States and delivered to its intended destination within the United States; however, does this provision allow the same products to be reoffered for transport when the shipment originates and terminates within the United States?



Mr. Edward T. Mazzullo  
Subj: Request for Letter of Interpretation  
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If the Pipeline and Hazardous Materials Safety Administration (PHMSA) determines that the marks and labels must be removed when reoffered, the Petitioner would respectfully request a Special Permit that would allow the marks and labels to remain on the packages as it is prohibitively costly to repackage the materials, or to remove the marks and labels which have been applied by the overseas supplier.

Your assistance in this matter would be most appreciated. If I may be of assistance in any way, please call. We look forward to your response.

Sincerely yours,

Steven Charles Hunt  
ShipMate, Inc.

cc: Mr. Michael Sweeney, Weber-Stephen Products Co.