



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

NOV - 4 2003

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

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

Ref. No. 03-0224

Dear Mr. Hunt:

This responds to your April 29, 2003 letter concerning hazardous materials transportation security requirements adopted under a final rule published March 25, 2003. Specifically, you ask whether the security plan requirements established in the final rule apply to shipments of Class 9 materials (e.g., Air Bag Module, 9, UN3268, III) when offered for transportation by vessel. It is your understanding that a freight container carrying a hazardous material such as an air bag module, described as an "Air Bag Module, 9, UN3268, III," must be placarded when offered for transportation by vessel even when the freight container carries only one 10-pound fiberboard box.

Your understanding is incorrect. Section 172.514(a) requires a bulk packaging containing a hazardous material to be placarded as specified in §§ 172.504 and 172.505. Section 172.504(f)(9) exempts domestic shipments of Class 9 materials from the placarding requirements. Thus, a placard is not required for domestic shipments of Class 9 materials; however, international shipments of Class 9 materials may need to be placarded in accordance with international regulations. If a CLASS 9 placard is not required for the domestic portion of transportation, the security plan requirements in Subpart I do not apply to such shipments, even if a CLASS 9 placard is required for the international portion of transportation. Note, however, that a person who offers or transports a Class 9 material in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids must develop and implement a security plan, irrespective of placarding requirements (see § 172.800(b)(4)).

The HM-232 final rule also includes new security training requirements. Section 172.704(a)(4) requires all hazmat employees, defined in § 171.8 of the HMR, to receive security awareness training. Thus, even though your Class 9 shipments may not be subject to security plan requirements, your hazmat employees must receive security awareness training. We have developed a computer-based security awareness CD-ROM that can be used to satisfy the security awareness training requirements in § 172.704(a)(4). The training CD-ROM is available to the public at no charge; it can be downloaded from our website (http://hazmat.dot.gov/hmt_security.htm) or ordered from our Training and Initiatives Office at 202-366-4900.

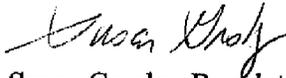


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172.704,
172.800

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Gorsky".

Susan Gorsky, Regulations Officer
Office of Hazardous Materials Standards



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April 29, 2003

Mr. Edward I. Mazzullo
 Chief, Standards Branch (DIIM-10)
 Research and Special Programs Administration
 U.S. Department of Transportation
 400 Seventh Street, SW
 Washington, DC 20590-0001

Beets
 § 172.800
 Security Plans
 03-0224

Subj: Request for Clarification, U.S. DOT Final Rulemaking HM-232

Dear Mr. Mazzullo:

This request for Interpretation is being submitted by Steven Charles Hunt, ShipMate, Inc., on behalf of the members of the North American Automotive HazMat Action Committee (NAAHAC), herein collectively referred to as the "Petitioner."

U.S. Department of Transportation final rulemaking, HM-232, published in the Federal Register, Vol. 68, No. 57, on March 25, 2003, requires that a Hazardous Materials Security Plan be developed and detailed HM security training be provided to affected hazardous materials employees when a person who offers for transportation or transports in commerce one or more of the hazardous materials listed in subpart G of 49 CFR part 107, which includes a quantity of hazardous material that requires placarding under subpart F of part 172.

The requirements of 49 CFR §172.512 require that placards shall be affixed "...to the freight container (with) the placards required by §172.504." This implies that a freight container carrying a hazardous material such as an air bag module, described as an AIR BAG MODULE, 9, UN3268, III, must be placarded when offered for transportation by vessel even when the freight container carries only one 10-pound fiberboard box.

A strict interpretation of these provisions would require a company that offers one fiberboard box containing an air bag module in a freight container by vessel to be subject to the HM Security Plan requirements and detailed HM security training, whereas another company that offers thousands of packages in one vehicle by highway would not be subject to the requirements because of the placarding exception in 49 CFR §172.504(f)(9).

Accordingly, the petitioner requests a written interpretation or clarification on the applicability of the HM Security Plan and corresponding "detailed" HM security training requirement. Is it the intent of the RSPA to require the HM Security Plan for "larger" quantities (e.g., less than 1000 lbs in a transport conveyance) of hazardous materials listed in 49 CFR §172.504, Table 2?

Hazardous Materials Training ♦ Information Systems ♦ Compliance Inspections & Audits ♦ Shipping & Regulatory Software



Mr. Edward T. Mazzullo
April 29, 2003
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As the outcome of this interpretation will have a significant impact on the Petitioner, the Petitioner respectfully requests a reply as soon as possible. Your urgent review and response would be most appreciated. If I may be of assistance in any way, please call.

Respectfully,


Steven Charles Hunt
ShipMate, Inc.

cc: Mr. Dan Wicton/Loyota Motor Sales, U.S.A., Inc.
Ms. Claudia Meeks/Ford Motor Company
NAAHAC