



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

AUG 16 2005

Mr. George A. Kerchner  
Wiley Rein & Fielding LLP  
1776 K Street NW  
Washington, DC 20006

Ref. No. 05-0076

Dear Mr. Kerchner:

This is in response to your letter requesting clarification of shipping requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the International Maritime Dangerous Goods Code (IMDG) for the SEGWAY mobility device when it contains two 36 g lithium ion batteries. Your questions are paraphrased and answered as follows:

Q1: May the SEGWAY mobility device and related chassis and power base that contain two 36 g lithium ion batteries be shipped by ground in the United States under an exception in 49 CFR 173.220?

A1: Yes. Section 173.220(g)(1) as amended by HM-224E interim final rule provides that a battery-powered vehicle or equipment that meets the other provisions of § 173.220 and contains no other hazardous materials is "not subject to any other requirements of [the HMR] for transportation by motor vehicle or rail car." The batteries must be securely fastened in the battery holder of the vehicle or engine, and be protected in such a manner as to prevent damage and short circuits. Lithium batteries must be of a type that have successfully passed each test in the UN Manual of Tests and Criteria as specified in § 173.185, unless approved by the Associate Administrator. A more limited exception for battery-powered vehicles and equipment applies to transportation by aircraft or vessel, and vehicles and machinery containing primary lithium batteries are forbidden aboard passenger-carrying aircraft except as provided in 49 CFR 172.101 (Special Provision A102).

Q2: Is the SEGWAY mobility device and related chassis and power base that contain two 36 g lithium ion batteries and classified as Battery-powered vehicle, or Battery-powered equipment UN 3171 excepted from the requirements of the IMDG Code, when transported by vessel?



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173.220(f)(1)  
173.185

A2: Yes. The option to use Battery-powered vehicle or Battery-powered equipment UN 3171 as a hazardous materials shipping description for your SEGWAY mobility device does not exist under the IMDG Code. Therefore, Battery-powered vehicle or Battery-powered equipment UN 3171 is not regulated under the IMDG Code. In addition, Special provision 105 of the United Nations Recommendations on the Transport of Dangerous Goods, states that UN 3171 is subject to the regulations only when transported by air. However, in accordance with 49 CFR 171.12(b)(3), a material that is designated as a hazardous material under the HMR, but is not subject to the requirements of the IMDG Code may not be transported in accordance with the IMDG Code and is subject to the requirements of the HMR.

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

Sincerely,



Susan Gorsky  
Acting Director  
Office of Hazardous Materials Standards



Wiley Rein & Fielding LLP

*Relferford*  
*§ 173.220(f)(1)*  
*§ 173.185*  
*Lithium Battery Exception*  
*05-0076*

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March 18, 2005

Mr. Edward Mazullo  
Director of Hazardous Materials Standards  
Research and Special Programs Administration  
U.S. Department of Transportation  
400 7<sup>th</sup> Street, SW  
Washington, DC 20590

Re: Request for Interpretation - Lithium ion Batteries and Battery-Powered Equipment in the HMR and IMDG Code

Dear Mr. Mazullo:

I am writing for a clarification on the classification of lithium ion batteries contained in mobility devices under the U.S. hazardous materials regulations (HMR) and International Maritime Dangerous Goods (IMDG) Code.

My client, SEGWAY LLC, recently introduced a new line of mobility devices (SEGWAY HT, XT and GT models) powered by two lithium ion batteries that each contain approximately 36 grams of equivalent lithium content (ELC). The battery meets all of the testing requirements in the UN Manual of Tests and Criteria, Fourth Revised Edition. When shipped by ground, air, or sea the batteries are offered as Class 9 lithium batteries (UN3090) pursuant to the applicable U.S. or international dangerous goods regulations.

When these lithium ion batteries are incorporated into SEGWAY's mobility device or a portion of the product (a chassis or power base) it is SEGWAY's intention to classify these as Battery Powered Equipment (UN3171) under the U.S. HMR. As Battery Powered Equipment, the mobility device, chassis, or power base that contain the lithium ion battery appear to be excepted from regulation under the HMR when shipped by ground in the U.S. pursuant to 49 CFR 173.220(f)(1) Therefore, my first question is as follows:

1. Can SEGWAY's mobility device and related chassis and power base that contain two 36 g lithium ion batteries be shipped by ground in the U.S. pursuant to the exception at 49 CFR 173.220(f)(1)?

SEGWAY also intends to ship its product by sea pursuant to the IMDG Code. After realizing the IMDG Code does not contain an entry for Battery

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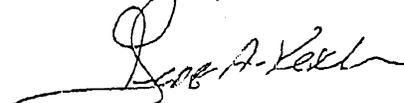
Powered Equipment (UN3171), I spoke to Mr. Manny Pfersich and Mr. Duane Fund of the U.S. DOT with regard to this "missing" entry. Mr. Pfersich explained that it is generally recognized these materials are not subject to regulation under the IMDG Code and thus at some point the International Maritime Organization (IMO) made a deliberate decision to remove this entry from the IMDG Code. However, I would like to receive written confirmation from your office with regard to this matter. My second question is as follows:

2. Is SEGWAY's mobility device and related chassis and power base that contain two 36 g lithium ion batteries and classified as Battery Powered Equipment (UN 3171) excepted from the requirements of the IMDG Code?

\* \* \* \*

Thank you for your assistance with regard to these matters. I look forward to your reply.

Sincerely,



George A. Kerchner