



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

**JAN 25 2010**

Mr. Torsten Helk  
Manager  
Hazardous Materials and  
Export Compliance  
BDP International, Inc.  
510 Walnut Street  
Philadelphia, PA 19106

Ref. No. 09-0005

Dear Mr. Helk:

This responds to your letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to shipments imported to or exported from the United States that are regulated as hazardous materials under the HMR, but are not subject to regulation under the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air or the International Maritime Dangerous Goods Code. Specifically, you ask at what point the jurisdiction of the United States and thus, the HMR, begins and ends.

The HMR apply to the transportation in commerce of hazardous materials by all modes of transport. As specified in Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. § 5101 *et seq.*), "commerce" means trade or transportation in the jurisdiction of the United States between a place in a state or a place outside of the state, that affects trade or transportation between a place in a state and a place outside of the state, or on a United States-registered aircraft. Thus, the HMR apply to hazardous materials transported in commerce as that term is defined in Federal hazmat law, including shipments transported by vessel in the navigable waters of the United States, as defined in § 171.8.

Shipments entering the United States must conform to all applicable HMR requirements. The HMR permit hazardous materials to be offered for transportation and transported by air or vessel domestically in the United States in accordance with the international standards or regulations if all or part of the transportation is by air or water. This policy promotes

compliance with multiple standards or regulations while facilitating international trade. Note, however, that a material regulated under the HMR that is excepted from or not subject to regulation under international standards must be transported in accordance with the HMR.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is written in a cursive style with a horizontal line underneath.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards



DOT/RSPA/OHMS  
09 JAN -6 AM 8:50

Stevens  
3171.22  
Applicability  
09-0005

December 17, 2008

Office of Hazardous Materials Safety  
Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
East Building, 2nd Floor  
Washington, DC 20590

Attn. Office of Hazardous Materials Standards

Re. request for clarification of jurisdiction of Title 49, Code of Federal Regulations

Over the past several months I have received numerous interpretations of the jurisdiction of 49CFR, which in turn do or can lead to serious complications and in the end to possible violations of the requirements in 49CFR.

Specifically, the problem arises when we are shipping materials that are considered Hazardous Materials under the US regulations, but that are not considered Hazardous under International regulations, i.e. IMDG, ICAO.

At which point does the jurisdiction of 49CFR begin or end.

My understanding is, that the US regulations become effective, or end, once the shipment enters, or leaves the US territorial boundary line (18miles out at sea). Whereas other people understand that the US regulations begin, or end once the shipment arrives at the port/pier or airport. The implications are far reaching, from marking and labeling requirements to documentation requirements.

As an example, a shipment arrives in the US, shipped under international regulations as non-regulated (non-hazardous), but since it is a hazardous material under the US regulations, can we now arrange for marking and labeling of this material, to bring it into compliance, or is this shipment already in violation of our regulations?

Or, on the export side, the shipment is transported in compliance with 49CFR, but when it reaches the port, can we remove the hazard markings and labels, or does this action put us in violation with the US regulations.

At what point must the documentation begin to reflect the hazardous material information, or at what point can we stop to show the hazardous material description?



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Having researched your database of Letters of interpretation on the Web, and having searched 49CFR for an answer to my dilemma, but not being able to locate the answer, I would greatly appreciate if you could give a formal interpretation to guide the shipping industry.

Thank you for your kind consideration. Sincerely Yours,

BDP International, Inc.

A handwritten signature in black ink, appearing to read "Torsten Helk". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Torsten Helk  
Manager Hazardous Materials  
and Export Compliance