



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

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

SEP 29 2004

Mr. Robert Tieman
Shipmate, Inc.
18436 Hawthorne Blvd, Suite 201
Torrance, CA 90504

Ref. No. 04-0176

Dear Mr. Tieman:

This is in response to your July 26, 2004 letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to Firestarters™ lighter cubes. You state that your products contain no more than 10 ml of "fuel" and there is no free liquid in the cells.

For the proper shipping name "Solids containing flammable liquids, n.o.s.," the Hazardous Materials Table refers you to special provision 47. Special provision 47 excepts from the HMR sealed packets that contain less than 10 ml of a flammable liquid in Packing Group II or III when the liquid is completely absorbed onto a solid material. Based on the information that you provided in your letter, it is the opinion of this Office that your Firestarters™ lighter cubes are not subject to the requirements of the HMR.

I hope this information is helpful.

Sincerely,

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



040176

§173.22



Bells
§173.22
Shipper's
Responsibility
04-0176

ShipMate, Inc.
18436 Hawthorne Blvd, Suite 201
Torrance, CA 90504
Phone: 310-370-3600
Fax: 310-370-5700
E-mail: robert@shipmate.com

July 26, 2004

Mr. Ed 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:

This application is being submitted by Robert Tieman, ShipMate, Inc., on behalf of the Petitioner, Weber-Stephen Products Co., 200 East Daniels Road, Palatine, IL 60067-6266, phone (800) 446-1071. The Petitioner respectfully requests an interpretation of the Hazardous Materials Regulations (HMR).

Weber-Stephen Products Co. currently distributes a product, Firestarters™ lighter cubes, which is a solid fuel that contains a wax-like substance, n-paraffin. The substance is packaged in plastic trays, each having 24 cells that are not in communication with one another and sealed in a metal foil (see photos 3, 4). Each cube contains no more than 10 ml of the "fuel" and there is no free liquid in the cells (see photo 5). A tray is then packed in a strong intermediate fiberboard box is then packed into strong specification fiberboard boxes.

In the form that it is offered, the product does not meet the definition of a flammable solid, as defined in Title 49, Code of Federal Regulations §173.124. Although the 49 CFR §172.101 Hazardous Materials Table (HMT) lists an entry for Firelighters, solid, *with flammable liquid*, 4.1, UN2623, II, this entry would not be an appropriate basic description for the Petitioner's product because the "fuel" that is in the Firestarters™ is not flammable. In fact, the flashpoint for the "fuel" is greater than 141°F. A copy of the product Technical Sheet is enclosed for your review. Upon careful review of the classification criteria, this product does not appear to meet the definition of a hazardous material a hazardous substance or a marine pollutant and would, therefore, not be regulated for transportation by any mode.

Is our interpretation consistent with your interpretation? And if so, could you please confirm that this product, in the form that it is packaged, is not subject to the requirements of the Hazardous Materials Regulations (HMR)?

Assuming, *arguendo*, that the DOT intends to regulate this product, would this product, as described, qualify for the relief provided for in Special Provision 47, which is listed for substances that are classified as Solids containing flammable liquid, n.o.s., 4.1, UN3175, II, provided that all of the conditions of Special Provision 47 were met?

The Petitioner also submits the following information in support of its petition.

Shipping History

The Petitioner, Weber-Stephen Products Co., has distributed this product for transportation in commerce as hazardous materials for many years. To date, there has not been a single incident or accident involving this product.



Mr. Ed Mazzullo
Subj: Letter of Interpretation
July 26, 2004

Equivalency of Safety

1. De minimis quantities
 - The product contains less than 10 ml of a non-flammable fluid per cell with no free visible liquid.
 - Each tray contains no more than 240 ml of the non-flammable "fuel." (see photos 3, 4, 5)
2. Superior Packaging
 - The cells have a thickness of at least 2 mm.
 - The product is shipped in hermetically sealed cells and no more than 24 cells for a tray which is packed into strong intermediate fiberboard boxes which are then packed into strong outer specification fiberboard boxes
 - The intermediate fiberboard boxes are used for point-of-sale retail purposes only. These fiberboard boxes are placed in larger fiberboard boxes for transport.
3. Additional Testing
 - ShipMate, Inc. tested the substance to see if the liquid would ignite when exposed to a direct flame. It was determined that the liquid will not ignite when exposed directly to an open flame (see photos 9, 10).
4. Training & Recordkeeping
 - Each hazardous material employee that handles this product or transports this product will receive additional Function-Specific training in addition to the hazardous materials General Awareness, Security Awareness, General Safety and Function-Specific training they currently receive.
 - A copy of your response will be maintained on file at each facility which offers this product and to each carrier with the first shipment of packagings offered and, at least, annually.

Conclusion

Given the product poses no risk in transportation as evidenced by a long history of accident and incident-free transportation; the very small quantities offered for transport; and the additional packaging, testing and training conducted, the Petitioner respectfully requests your written interpretation and confirmation that the material is not subject to the Hazardous Materials Regulations and, if regulated, that this product may be offered under Special Provision 47 for an equivalent product.

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,

Robert Tieman
ShipMate, Inc.

Enclosures

cc: Mr. Mike Sweeney, Weber-Stephen Products Co., Inc.
Mr. Steven Charles Hunt, ShipMate, Inc.

Photographs

Photo 1: Inner Packaging Configuration (width)

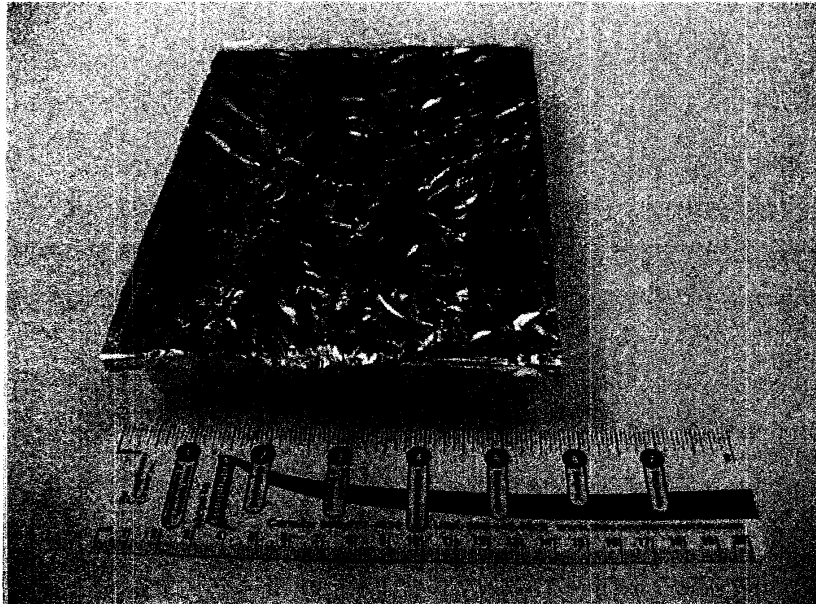
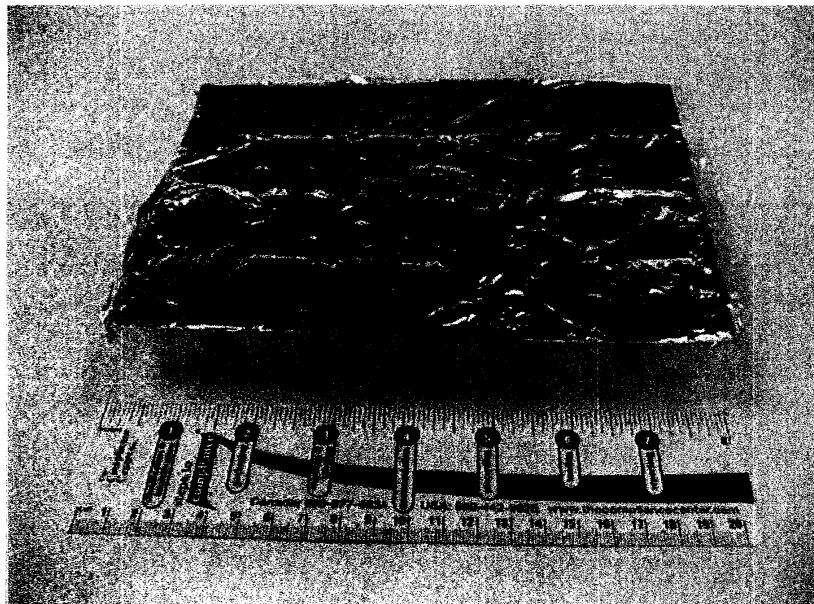


Photo 2: Inner Packaging Configuration (length)



Photographs

Photo 3: Inner Packaging Configuration (cells)

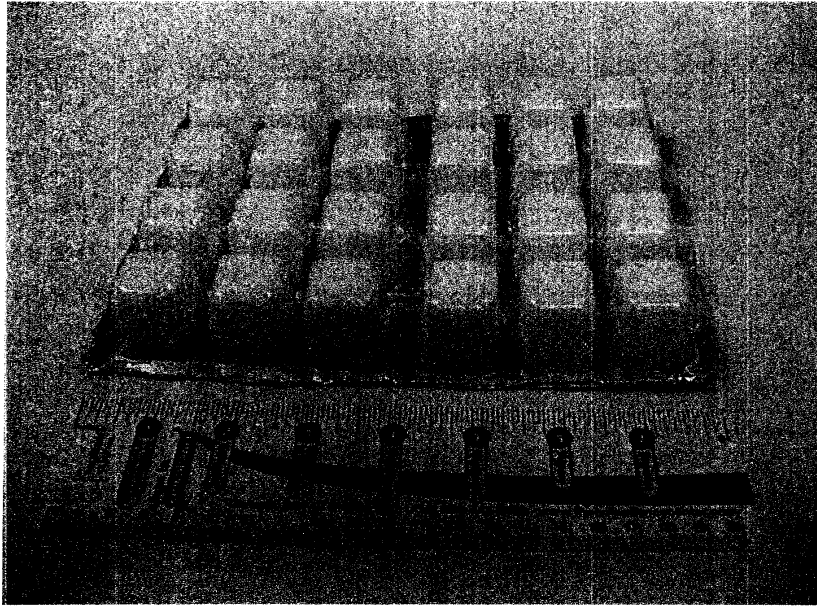
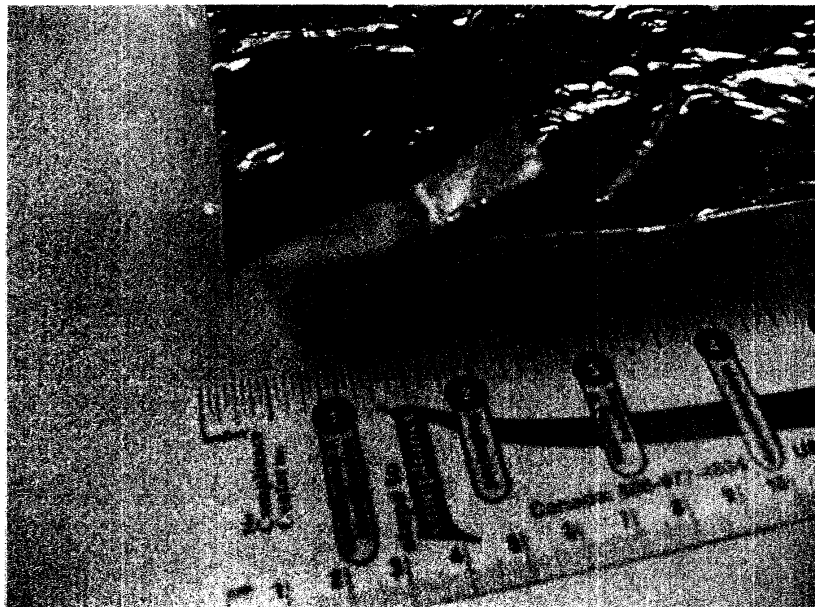


Photo 4: Inner Packaging Configuration (individual foil wrapped cells)

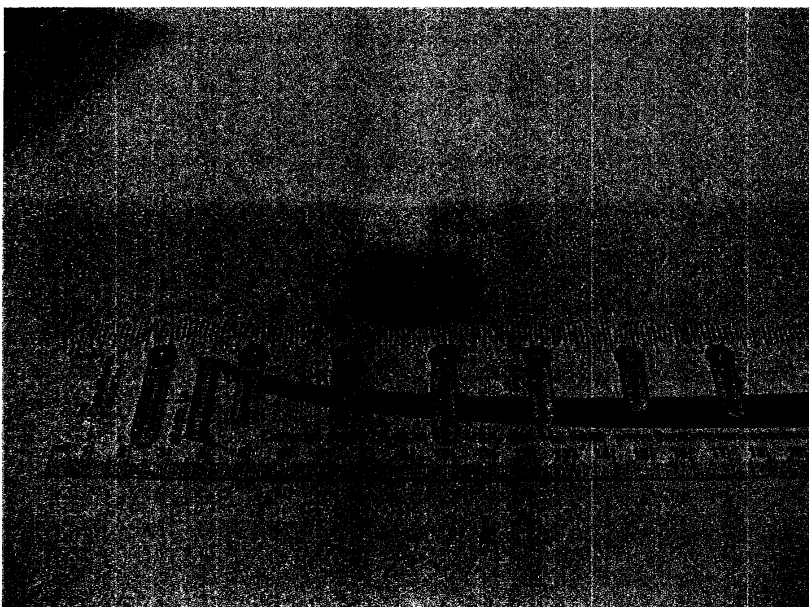


Photographs

Photo 5: Inner Packaging Configuration (no free liquid)



Photo 6: Individual Firestarter™ Lighter Cube



Photographs

Photo 7: Individual Firestarter™ Lighter Cube (alight)

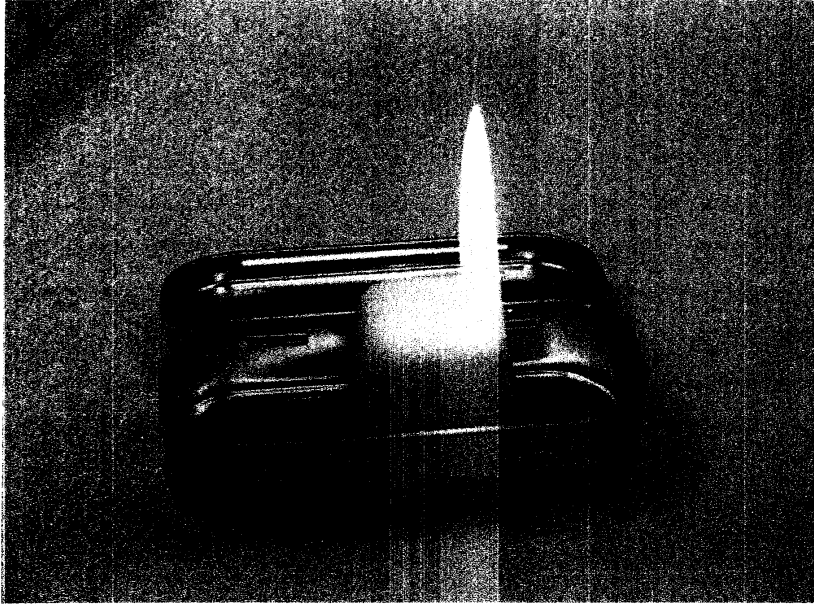
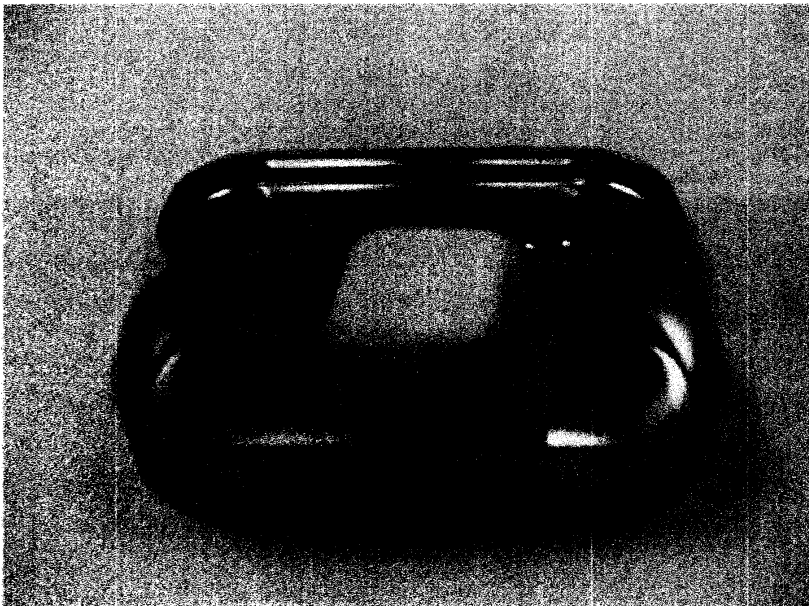


Photo 8: Individual Firestarter™ Lighter Cube (extinguished)

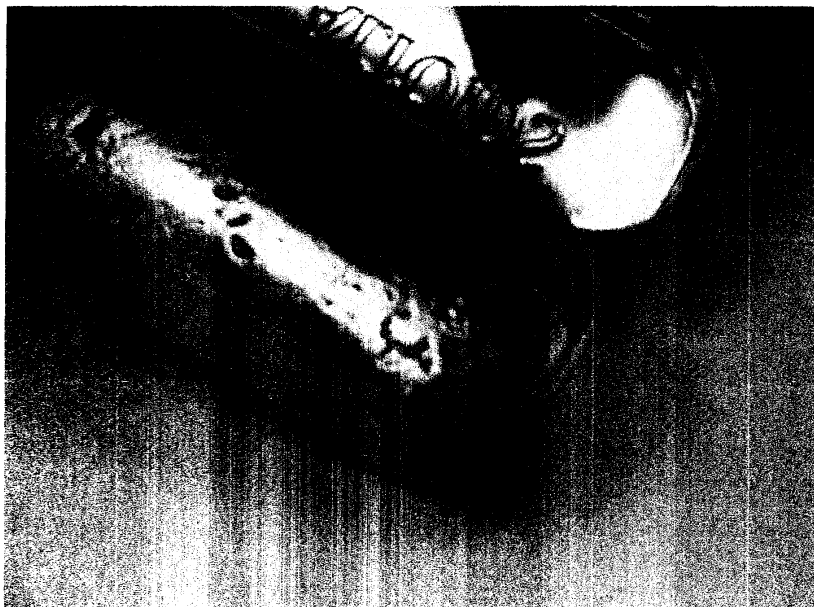


Photographs

Photo 9: Direct flame (butane lighter) applied to liquid extracted from Firestarter™ Lighter Cube



Photo 10: Direct Liquid extracted from Firestarter™ Lighter Cube (direct flame removed)



Technical data and characteristics

Sunbird Lighting Cubes

Appearance	white solid cube	Flame height	approx. 20 cm
Basic material	odourless high purity n-paraffines, aromatic free; no kerosene	Properties	non explosive; odourless; easy to light, even when wet; made without hydrochloric acid
Flash point (basic material)	> 61° C, ASTM D 93	Safety	fulfils DIN 66 358-S, reg.no. 5Z011 DIN Certco
Burning tempearture	avrg. > 750° C	Handling	see <u>Material Safety Data Sheet</u>
Burning duration	avrg. 12 - 15 minutes	Transport classification	see <u>Material Safety Data Sheet</u>
Non-toxicity	LD50 > 5.000 mg/kg (OECD 401,1981); Reference: Scantox Biologisk Laboratorium No. 10790, 23.01.1981	Emission (during ignition)	passed: SCAQM District rule 1174 ref. C22/23, 04.09.1991; references: Dansk Teknologisk Institut nr. 30014615, 11.06.1991; Horizon Air Measurement Service S09-001-FR, 17./18.07.1991

Drakeford, Carolyn

From: Mazzullo, Ed
Sent: Tuesday, July 27, 2004 10:55 AM
To: Drakeford, Carolyn
Subject: FW: REQUEST FOR INTERPRETATION

Please assign for response.

Ed

-----Original Message-----

From: Steve Hunt [mailto:Steve@shipmate.com]
Sent: Monday, July 26, 2004 6:26 PM
To: Mazzullo, Ed <RSPA>
Cc: Nelson, Sherrie <RSPA>; Posten, Ryan <RSPA>; Robert Tieman; Kris Hunt
Subject: REQUEST FOR INTERPRETATION

Dear Mr. Mazzullo:

Attached, please find a copy of a Request for Interpretation regarding Firestarters lighter cubes. My client distributes these products which is basically a wax which will burn when a direct flame is applied to it. However, the liquid which is in the wax will not ignite.

I have included photographs which may be of assistance.

Your assistance in this matter would be appreciated.

Best Regards,

Steven Charles Hunt
ShipMate, Inc.
18436 Hawthorne Blvd, Suite 201
Torrance, CA 90504
(310) 370-3600 phone
(310) 370-5700 fax
(310) 600-5241 cell
e-mail: shipmate@shipmate.com

Please visit our web-site at: <http://www.shipmate.com>

7/27/2004