



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

DEC 05 2012

Ms. Stephanie Dalton
Senior Tax Analyst
Wirtgen America, Inc.
6060 Dana Way
Antioch, TN 37130

Reference No.: 12-0189

Dear Ms. Dalton:

This is in response to your September 19, 2012 letter and subsequent phone conversation requesting clarification of shipping classifications for Hazardous materials under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You state that your company imports construction machinery and equipment throughout the Americas. The equipment is offered for transportation by your parent company and is prepared in accordance with the IMDG Code and offered as UN3166, Engines internal combustion. You state that the construction machines are generally shipped containing viscosity grade 46 hydraulic oil, engine oil, special vibratory oil, ethylene glycol antifreeze, and up to 5 gallons of diesel fuel. You ask two questions which have been paraphrased and answered below.

Q1. Must machines containing viscosity grade 46 hydraulic oil, engine oil, special vibratory oil, ethylene glycol antifreeze, and up to 5 gallons of diesel fuel be marked, labeled, and placarded, consistent with the requirements of Subparts D, E, and F when transported by motor carrier or rail car, or does 49 CFR 172.220(h) apply to except these shipments?

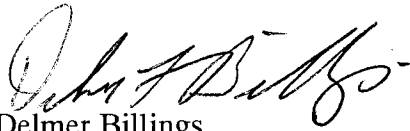
A1. As specified in § 173.22 of the HMR, it is the shipper's responsibility to properly classify a hazardous material. This Office does not generally perform that function. However, mechanized equipment containing an internal combustion engine are generally classified as UN 3166 Engines, internal combustion domestically. Shipments offered as engines, internal combustion are not subject to the requirements of Subchapter C (including labeling, marking, placarding, and shipping papers) for transportation by motor vehicle or rail car when prepared in accordance with § 173.220.

Q2. Must a shipper's IMO Dangerous Goods Declaration form or labeling applicable to transportation by vessel accompany all shipments of construction machines when being picked up by motor carriers at US ports if the aforementioned qualify for exceptions from such requirements under the HMR?

A2. It is assumed this shipment is prepared in accordance with the IMDG Code as authorized by § 171.22 and imported into a United States port. Subsequent highway or rail movements of that shipment may choose to utilize domestic exceptions offered by the HMR if the shipment qualifies for the exception. Highway and rail shipments of Engines, internal combustion are excepted from the requirements of Subchapter C, including shipping papers and labeling, if prepared in accordance with § 173.220.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Delmer Billings".

Delmer Billings
Senior Regulatory Advisor
Standards and Rulemaking Division



Close to
our customers



ROAD AND MINERAL TECHNOLOGIES

Wirtgen America, Inc.
6030 Dana Way
Antioch, TN 37130

September 19, 2012

Charles Betts
U.S. DOT
PHMSA Office of Hazardous Materials Standards
East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590

Webb
\$ 171.22
\$ 171.23
IMDG
12-0189

Attention: Review Team

This letter is to request clarification of shipping classifications for Hazardous Materials under Code (HMR, 49 CFR Parts 171-180). Wirtgen America, Inc. is a wholesale distributor of construction machinery and equipment. While our parent company is located in Germany, Wirtgen America, Inc. supplies construction machinery and equipment throughout the Americas, specifically in United States and Canada. Our parent company ships pre-fabricated machinery and equipment to the US by vessel to a destination port. These machines are subsequently picked up by common carrier and sent either directly to our location in Antioch, TN or to our customers.

The construction machines shipped generally contain viscosity grade 46 Hydraulic Oil; engine oil; special vibratory oil in the drum's housing as well as ethylene glycol antifreeze, and up to 5 gal of diesel. Our machines are packaged in non-bulk packaging and transported initially by vessel and labeled as dangerous goods under the IMDG code. Our inquiry relates to compliance with the HMR for transportation from the port by motor carrier to another destination.

Question 1: Must machines carrying viscosity grade 46 Hydraulic Oil; engine oil; special vibratory oil in the drum's housing as well as ethylene glycol antifreeze, and up to 5 gal of diesel, be marked, labeled, and placarded, consistent with the requirements of subparts D, E, and F when transported by motor carrier or rail car, or does 49 C.F.R. 173.22(h) apply to except these shipments?

Question 2: Must a shipper's IMO Dangerous Goods Declaration form or labeling applicable to transportation by vessel accompany all shipments of construction machines when being picked up by motor carrier at US ports if the aforementioned qualify for a Hazardous Materials Labeling exception?

Thank you for your cooperation in this matter.

Sincerely,

Stephanie Dalton
Senior Tax Analyst
Wirtgen America, Inc.