



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

AUG 1 5 2017

Benjamin Huron, M.Sc., CHMM, CIE  
Senior Scientist  
Golder Associates, Inc.  
9428 Baymeadows Road, Suite 400  
Jacksonville, FL 32256

Reference No. 17-0022

Dear Mr. Huron:

This letter is in response to your February 21, 2017, e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the security plan requirements prescribed in Part 172, Subpart I.

We have paraphrased and answered your questions as follows:

- Q1. You ask if a company is required to develop and adhere to a transportation security plan for hazardous materials if the employees only unload large bulk quantities of a Class 3 (flammable liquid), Packing Group (PG) II material while the carrier is present. You further specify that the company does not offer for transport or act as carrier of this hazardous material in quantities that would require a security plan.
- A1. The answer to your question is yes. If the Class 3, PG II material is unloaded from a bulk package in the presence of the carrier, then the requirement to develop and implement a transportation security plan under § 172.800 would apply. If the private carrier has left the consignee's unloading area or the common or contract carrier has departed the consignee's property, then the requirement to develop and implement this same transportation security plan would not apply. The requirement to develop and implement a security plan applies to persons who offer for transportation or transport the hazardous materials specified in § 172.800 of the HMR. Section 171.8 defines "transportation/transport" as the movement of property and loading, unloading, or storage incidental to that movement. However, pursuant to § 171.1(d)(2), hazardous materials that are unloaded from a transport vehicle or bulk packaging following delivery of a shipment by the carrier to the consignee are not considered to be in transportation in commerce and are not subject to the requirements of the HMR, if: 1) they are unloaded by the consignee's own employees following the departure of the carrier's personnel, or 2) in the event a private carrier is used, that carrier has departed the unloading area.

Q2. You ask if the Department of Transportation requires a company that only unloads hazardous materials in the quantities listed and defined in § 172.800(b) to have a security plan.

A2. The answer to your question is yes. Persons that perform the pre-transportation or transportation functions defined in § 171.1(b) or (c) are subject to § 172.800(b).

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster", with a stylized flourish at the end.

T. Glenn Foster  
Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

**Dodd, Alice (PHMSA)**

Edmonson  
§ 172.800(b)  
Applicability  
17-0022

**From:** Rivera, Jordan CTR (PHMSA)  
**Sent:** Wednesday, February 22, 2017 3:04 PM  
**To:** Hazmat Interps  
**Subject:** FW: Security Plan Requirements for Unloading

Hi Shante/Alice,

Please submit this as a letter of interpretation. Mr. Huron spoke with Jodi. Please let me know if you have any questions.

Thanks,  
Jordan

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**From:** Huron, Benjamin [mailto:Benjamin\_Huron@golder.com]  
**Sent:** Tuesday, February 21, 2017 8:27 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Subject:** Security Plan Requirements for Unloading

To whom it may concern,

I am writing to request clarification of the applicability of the DOT security plan requirements at 49 CFR Part 172, Subpart I for unloading operations.

Specifically, is a company who only has employees that are involved in the unloading of "large bulk quantities" of a flammable PG II material, while the carrier is present, required to develop and adhere to a transportation security plan for hazardous materials? Under this scenario, the company does not offer for transport hazardous materials in quantities that would require a security plan. In addition, the company does not act as a carrier of hazardous material in quantities that would require a security plan.

The regulations, as written, imply that the act of unloading of a large bulk shipment of a flammable PG II material would trigger security plan requirements:

*Each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a transportation security plan for hazardous materials that conforms to the requirements of this subpart. See 49 CFR 172.800(b). Transportation or transport means the movement of property and loading, unloading, or storage incidental to that movement. See definition of "transportation" at 49 CFR 171.8.*

Is it DOT's intent to require a company that only unloads hazardous materials in amounts meeting the quantities defined in 49 CFR 172.800(b) to have a security plan?

Thank you in advanced for your response.

Sincerely,

Ben Huron

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