



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

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

MAY 30 2003

Ms. Amanda Bishop  
Dart Container Corporation  
P.O. Box 309  
Horse Cave, KY 42749

Ref. No. 03-0124

Dear Ms. Bishop:

This responds to your April 24, 2003 email to Ms. Donna O'Berry in the Research and Special Programs Administration's Office of the Chief Counsel concerning hazardous materials transportation security requirements adopted under a final rule published March 25, 2003. Specifically, you ask if the security plan requirements established in the final rule apply to shipments of Class 9 materials.

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), as amended by the HM-232 final rule, require persons who offer for transportation or transport the following classes and quantities of hazardous materials to develop and implement security plans:

- (1) A highway route-controlled quantity of a Class 7 (radioactive) material;
- (2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material;
- (3) More than one L (1.06 qt) per package of a material poisonous by inhalation that meets the criteria for Hazard Zone A;
- (4) A shipment of a quantity of hazardous materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;
- (5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class;
- (6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73; and



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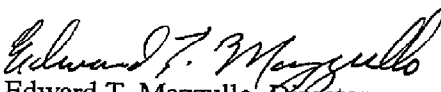
(7) A quantity of hazardous material that requires placarding under the provisions of subpart F of this part.

You are correct that a placard is not required for domestic shipments of Class 9 materials; however, international shipments of Class 9 materials may need to be placarded in accordance with international regulations. If a CLASS 9 placard is not required for the domestic portion of transportation, the security plan requirements in Subpart I do not apply to such shipments, even if a CLASS 9 placard is required for the international portion of transportation. Note, however, that a person who offers or transports a Class 9 material in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids must develop and implement a security plan, irrespective of placarding requirements.

The HM-232 final rule also includes new security training requirements. Section 172.704(a)(4) requires all hazmat employees, defined in § 171.8 of the HMR, to receive security awareness training. Thus, even though your Class 9 shipments may not be subject to security plan requirements, your hazmat employees must receive security awareness training. We have developed a computer-based security awareness CD-ROM that can be used to satisfy the security awareness training requirements in § 172.704(a)(4). The training CD-ROM is available to the public at no charge; it can be downloaded from our website ([http://hazmat.dot.gov/hmt\\_security.htm](http://hazmat.dot.gov/hmt_security.htm)) or ordered from our Training and Initiatives Office at 202-366-4900.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

  
Edward T. Mazzullo, Director  
Office of Hazardous Materials Standards

To: Donna O'Berry  
From: Amanda Bishop, Dart Container Corporation  
Date: April 24, 2003  
Subject: 49 CFR 172.704-804 "Security Plans"

Govsky  
§ 172.800(7)  
Placarding  
03-0124

Per our conversation this afternoon, I am submitting this question regarding the new Department of Transportation "Security Plan" rule that went into effect earlier this year.

According to 49 CFR 172.504 (f) 9, a placard is not required for domestic Class 9 shipments of expandable polystyrene bead; therefore this would exempt Dart Container Corporation from 49 CFR 172.704-804. However, because we ship expandable polystyrene internationally to Mexico and Canada, placards are needed for Class 9 shipments and therefore applied by Common Carriers to the load in Kentucky; which would cause applicability under 172.800 (7).

Would Dart Container Corporation be exempt from 172 CFR 704-804 for this special circumstance? And would a Security Plan be needed?

If you have any questions regarding this matter, please call me at 270-786-2183.

Thanks for your help in the matter.

Sincerely,

Amanda Bishop