



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUN 10 2014

Mr. Tom Cloud and
Ms. Janelle Agnew
Universal Well Services, Inc.
18360 Technology, Box 4
Meadville, PA 16335

Reference No. 13-0231

Dear Mr. Cloud and Ms. Agnew:

This is in response to Mr. Cloud's letter postmarked November 19, 2013, the February 14, 2014 telephone conversation in which you both spoke with a member of my staff, and Ms. Agnew's February 26, 2014 e-mail and attachments requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to transportation security plans. You state your company's employees transport certain hazardous materials by motor vehicle in non-bulk and bulk packages when they travel from site to site to service oil and gas wells to facilitate their continued safe operation. We have paraphrased your questions and answered them in the order you provided.

- Q1. Do materials that meet the definition of a Division 6.1 (poisonous) "material poisonous-by-inhalation," as this term is defined in § 171.8, require a security plan prescribed in § 172.800(b)(5) when placed in commercial transportation?
- A1. Yes. Each person who offers for transportation in commerce or transports in commerce one or more of the hazardous materials listed in § 172.800(b), including if the material is a subsidiary hazard, must develop and adhere to a transportation security plan for hazardous materials that conforms to the requirements of 49 CFR Part 172, Subpart I.
- Q2. In her e-mail, Ms. Agnew provided a list of 20 materials, material safety data sheets (MSDS) for 4 materials on the list and 5 materials not on the list, and packaging information for 14 of these materials. She also inserted question marks and blank spaces in the table to denote materials not currently transported by your company, and packaging weights or volumes that are unknown. You ask if these materials require a security plan under the HMR.
- A2. For some of these materials the answer is yes depending on their hazard class, amount per package, and packing group, as prescribed in § 172.800(b). The HMR's security plan requirements, prescribed in 49 CFR Part 172, Subpart I, are designed to enhance through training the security of certain highly hazardous materials transported in commerce. The list of materials subject to these requirements is based on an evaluation of the security

threats associated with a material's type and degree of hazard and quantity, as well as terms specifically defined in 49 CFR Part 172, Subpart I. For example, § 172.800(b) defines a "large bulk packaging," as it applies to that section, as a quantity greater than 3,000 kg (6,614 pounds) for solids or 3,000 L (792 gallons) for liquids and gases in a single bulk packaging. Also, § 172.800(b)(5) requires a security plan for any quantity of a Division 6.1 material in one packaging that is poisonous-by-inhalation. The table below shows how the HMR's in-depth security plan requirements apply to the hazardous materials you inquired about.

No.	Hazard Class & Packing Group	Security Plan Needed	Section Reference
1	a) 8 - PG II & III b) 8, 3 - PG II	No, this is not a PG I, Class 8 material	§ 172.800(b)(16)
2	a) 8, 3 - PG II b) 3 - PG II c) 3, 6.1 - PG II d) 6.1, 3 - PG II	Yes, if the Class 3 material is a PG (I or) II material is in one packaging in a large bulk quantity	§ 172.800(b)(6)
3	5.1 - PG II	Yes, if the PG II, Division 5.1 material is in one packaging in a large bulk quantity	§ 172.800(b)(10)
4	5.1 - PG III	No, because this is not a PG I or II, Division 5.1 material	§ 172.800(b)(10)
5	a) 3, 6.1 - PG II b) 6.1, 3 - PG II c) 6.1 - PG III	Yes, if the Division 6.1 material is in one packaging in a large bulk quantity	§ 172.800(b)(12)
6	2.1	Yes, if the Division 2.1 material is in one packaging in a large bulk quantity	§ 172.800(b)(3)

Q3. Is the material with the product name "EC6116A" a marine pollutant? The ingredients listed in its MSDS are not named on the "List of Marine Pollutants" table prescribed in § 172.101, Appendix B. If EC6116A is a marine pollutant, is it correct for us to include the wording "Marine Pollutant" in association with the proper shipping name when we transport this material by motor vehicle in a bulk packaging?

A3. The answer is yes to both questions. The MSDS you provided for EC6116A states in a note in Item 14 that this material is a marine pollutant. Further, the HMR require that a bulk package containing a "marine pollutant," as defined in § 171.8, is subject to the requirements for marine pollutants prescribed in § 171.4 when offered for transportation or transported in any mode. Therefore, for a marine pollutant in a bulk packaging the words "Marine Pollutant" must be entered on a shipping paper in association with the basic description as prescribed in § 172.203(1)(2). However, please note that if this material is placed in a non-bulk package, it is subject to regulation as a marine pollutant only when it is offered for transportation or transported by vessel. See § 171.4(c).

- Q4. How do you determine if a material is a marine pollutant when its ingredients are not listed in the marine pollutant table prescribed in § 172.101, Appendix B?
- A4. The List of Marine Pollutants Table in § 172.101, Appendix B, lists potential marine pollutants based on the provisions of Annex III of the 1973 International Convention for Prevention of Pollution from Ships, as modified by the Protocol of 1978 (Marine Pollution (MARPOL) 73/78) (see § 171.4(b)). The list is not all inclusive. If a material is not listed in this table and meets the criteria for a marine pollutant as provided in Chapter 2.9 of the International Maritime Dangerous Goods (IMDG) Code, the material may be transported as a marine pollutant in conformance with the applicable requirements of the HMR (see § 172.101, Appendix B, paragraph 4). Further, a material or solution that meets the definition of a marine pollutant in § 171.8 of the HMR but does not meet the criteria for a marine pollutant as provided in Sections 2.9.3.3 and 2.9.3.4 of the IMDG Code may be excepted from the requirements of the HMR as a marine pollutant if that exception is approved by Pipeline and Hazardous Materials Safety Administration's Associate Administrator for Hazardous Materials Safety (see § 172.101, Appendix B, paragraph 5).

I hope this satisfies your request.

Sincerely,



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

Edmonson
\$ 172,800
Security Plans
13-0231

HAZMAT SECURITY PLAN REQUEST FOR INTERPRETATION FROM PHMSA – HAZMAT SECURITY PLAN.

Universal Well Services, Inc. transports hazardous material with a subsidiary hazard class of 6.1.

Does a subsidiary hazard class have to be considered when determining if a Hazmat Security Plan is required by regulation?

We have received varying responses to this question.

Tom CLOUD

UNIVERSAL WELL SERVICES, INC.

18360 TECHNOLOGY, Box 4

MEADVILLE, PA. 16335

OFFICE: 814-373-3251

CELL: 724-866-2044