



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

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

SEP 13 2010

Ms. Robyn Heald
Director Transportation & Incident Analysis
The Chlorine Institute, Inc.
1300 Wilson Blvd, Suite 525
Arlington, VA 22209

Ref. No. 10-0176

Dear Ms. Heald:

This responds to your August 10, 2010 request for clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In the scenario described in your letter, the end user returns a residue chlorine cylinder or ton container to the supplier. The end user secures the closure on the package, but is not the party who prepares and provides the shipping papers, nor does he perform the pre-transportation inspection to ensure the container is suitable for shipment. Specifically, you ask if the end user is subject to the hazardous material security plan requirements.

In accordance with § 171.1(b)(4), the end user performs a pre-transportation function by securing a closure on a package or container containing a residue of a hazardous material. Also, as provided in Part 172, Subpart I of the HMR, any quantity of a material poisonous by inhalation is subject to the security plan requirements. Therefore, the hazardous materials security plan requirements apply to the end user in your scenario you describe.

I hope this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

A handwritten signature in black ink that reads "Ben Supko". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ben Supko
Acting Chief, Standards Development
Office of Hazardous Materials Standards



THE CHLORINE INSTITUTE, INC.
1300 Wilson Blvd, Suite 525, Arlington, VA 22209
Phone: 703-894-4140 Fax: 703-894-4130
www.chlorineinstitute.org

Boothe
\$172.800
\$173.29
Security Plans
10-0176

August 10, 2010

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
East Building
1200 New Jersey Ave., SE
Washington, DC 20590

RE: Interpretation of Docket No. PHMSA-06-25885 (HM-232F)

Since the Hazardous Materials Risk-Based Adjustment for Transportation Security Plan Requirements (PHMSA-06-25885) final rule was published on March 9, 2010, some organizations have questioned on whether or not users who return containers with some residue are subject under the DOT Security Plan rule.

Specifically using the example of a water treatment facility, the user returns a residue chlorine cylinder or ton container to the supplier. The only pre-transportation function that this user performs is securing a closure on a package or container containing a residue of hazardous material, as described in the HMR. The end-user is not the party who prepares and provides the shipping papers, nor does it perform the pre-transportation inspection to ensure the container is suitable for shipment (both functions related to the remaining pre-transportation functions described in the HMR). In this case, would public utility users be considered "persons who offer for transportation or transport certain hazardous materials in commerce" as it is defined by the HMR?

CI requests that PHMSA provide an interpretation of the rule as it relates to the described scenario. With the effective date of October 1, 2010 for the final rule soon approaching, a rapid response would be much appreciated.

Sincerely,

Robyn Heald
Director, Transportation & Incident Analysis
The Chlorine Institute, Inc.
703-894-4123
rheald@ci2.com