



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

AUG 15 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