



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

AUG 12 2008

Mr. Andrew N. Romach
Regulatory Manager
URS Corporation
1600 Perimeter Park Drive
Morrisville, NC 27560

Ref. No. 08-0076

Dear Mr. Romach:

This responds to your March 19, 2008 letter requesting clarification concerning the applicability of security plan requirements to certain shipments of hazardous materials under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the security plan requirements apply to low volume shipments that do not pose a security risk.

Currently, the security plans requirements in Subpart I of Part 172 of the HMR apply to persons who offer for transportation or transport:

- (1) A highway-route controlled quantity of a Class 7 (radioactive) material;
- (2) More than 25 kg (55 lbs.) of a Division 1.1, 1.2, or 1.3 (explosive) material;
- (3) More than 1 L (1.06 qt.) per package of a material poisonous by inhalation in Hazard Zone A;
- (4) A shipment in a bulk packaging with a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases greater 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 lbs.) gross weight or more of one class of hazardous materials for which placarding is required;
- (6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR Part 73 and, by April 1, 2007, a select agent or toxin regulated by the U.S. Department of Agriculture under 9 CFR Part 121; or
- (7) A shipment that requires placarding under Subpart F of Part 172 of the HMR.

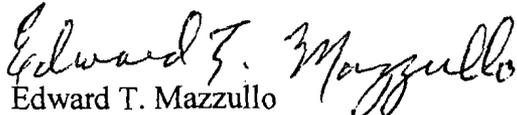
Note that for shipments that do not require a placard under the HMR, a security plan is not required even if the shipment must be placarded under international regulations. For example, a shipment that requires a Class 9 placard for international transportation is not subject to the security plan requirements if the shipment is excepted from placarding in

accordance with § 172.504(f)(9). Similarly, a person who offers for transportation or transports a shipment that is subject to placarding under the International Maritime Dangerous Goods Code is not required to have a security plan if that shipment is not also subject to placarding under the HMR.

We are currently developing a notice of proposed rulemaking under Docket No. HM-232F, which is proposing to revise the list of materials for which hazardous materials transportation security plans are required. The proposed rule will be published in the near future.

I hope this information is helpful and answers your inquiry.

Sincerely,


Edward T. Mazzullo
Director
Office of Hazardous Materials Standards

Booth e
\$172,800
Security Plan Applicability
08-0076

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Wednesday, March 19, 2008 12:43 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Security Plan Applicability
Attachments: 020132.pdf

From: Andy_Romach@URSCorp.com [mailto:Andy_Romach@URSCorp.com]
Sent: Wednesday, March 19, 2008 12:39 PM
To: Gorsky, Susan <PHMSA>
Cc: Carolyn_Norris@URSCorp.com
Subject: Security Plan Applicability

(See attached file: 020132.pdf)

Susan--

In a DOT interpretation letter dated August 20, 2002 (Ref. No. 0200132, attached above), DOT clarified that DOT registration is required for a shipper of low volumes of hazardous materials by vessel, such as a few boxes of paint (that do not meet the limited quantity criteria) placed in a cargo transport unit filled with nonhazardous equipment. Because the criteria for DOT registration and DOT security plans are identical, it appears that the shipper also would be required to develop a DOT security plan for shipping these low volumes of hazardous materials. Is it DOT's intent to require a security plan when shipping such low volumes of hazardous materials that would not pose a security threat?

Thanks'

Andy

Andy Romach
Phone- 919-461-1220
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U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

AUG 20 2002

Mr. Andrew N. Romach
Regulatory Manager
URS Corporation
1600 Perimeter Park Drive
Morrisville, NC 27560

Ref No.: 02-0132

Dear Mr. Romach:

This is in response to your May 7, 2002 letter requesting clarification of the registration requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you asked if DOT registration is required for a shipper of low volumes of dangerous goods by vessel, such as a few boxes of paint placed in a cargo transport unit filled with nonhazardous equipment. Your questions are paraphrased and answered as follows:

Q: If a shipper packs a cargo transport unit for shipment by vessel that contains a low volume hazardous material shipment that exceeds the allowed limited quantity amount but is well below 1,001 pounds, would DOT registration be required?

A: Yes. As specified in §107.601(a)(6), a person who offers or transports a hazardous material for which placarding is required must register. Any amount of hazardous material and transportation of Class 9 materials by vessel require registration for both the offeror and the carrier of the material. Section 172.504(c) allows certain non-bulk shipments an exception from placarding; however, the exception does not apply to transportation by vessel. Thus, regardless of package size (bulk vs. non-bulk) or hazard class, the offering or transporting in commerce by vessel of hazardous materials would require registration.

Q: If a shipper offers a non-bulk package (such as a fiberboard box containing a gallon of packing group II paint) by ground and then once it reaches the port, a consolidator packs the shipment into a cargo transport unit at which time the consolidator prepares the shipping paper and affixes placards to the cargo transport unit, would DOT registration be required?

A: Yes. The freight consolidator is performing a function of an offeror and would be required to register. The functions of an offeror include, but are not limited to the following: selection of the packing for a hazardous material, physical transfer of hazardous material to a carrier classifying hazardous materials, preparing shipping papers, reviewing shipping papers to verify compliance



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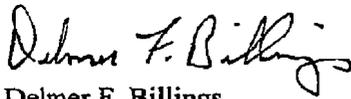
107.601

B: with the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) or international equivalents, signing hazardous materials certifications on shipping papers, placing hazardous material markings or placards on vehicles or packages, and providing placards to a carrier.

In addition, carrier is defined in § 171.8 to mean a person engaged in the transportation of passengers or property by: land or water, as a common, contract or private carrier; or civil aircraft.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



Reierford
§ 107.601
Registration
02-0132

May 7, 2002

Mr. Ed Mazzullo, Director
Office of Hazardous Material Standards
Research and Special Programs Administration
U.S. Department of Transportation
400 7th Street, SW
Washington, DC 20590-0001
FAX: (202) 366-3012

Dear Mr. Mazzullo:

I am writing to you to request a written regulatory interpretation concerning whether DOT registration is required if a shipper is offering low volumes of dangerous goods for marine shipment, such as a few boxes of paint placed in a cargo transport unit primarily filled with nonhazardous equipment.

In 49 CFR 107.601(a)(6), DOT registration is required for:

Any person who offers for transportation, or transports, in foreign, interstate, or intrastate commerce...a quantity of hazardous material that requires placarding, under provisions of subpart F of 172 of this chapter.

In 49 CFR 172.504(a):

Except as otherwise provided in this subchapter, each bulk packaging, freight container, unit load device, transport vehicle or rail car containing any quantity of a hazardous material must be placarded on each side and each end....

The exception from placarding provided in 49 CFR 172.504(c) for 1,001 pounds or less of hazardous materials is limited to highway or rail. No similar exception exists for a marine shipment.

The particular shipment in question is being prepared in accordance with Chapter 5.3 of the International Maritime Dangerous Goods (IMDG) Code, which requires placarding of any cargo transport unit containing dangerous goods (unless the shipment qualifies as a limited quantity). (Limited quantities of dangerous goods are allowed to mark a container with "Limited Quantities" and obtain relief from placarding as allowed in 5.3.2.4.)

Question 1: If a shipper packs a cargo transport unit for marine shipment that contains a low volume hazardous material shipment that exceeds the allowed limited quantity amount but is well below 1,001 pounds, would DOT registration be required?

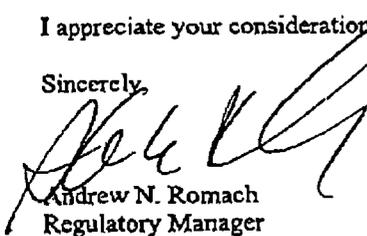
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Mr. E. Mazzullo
U.S. DOT/RSPA
May 7, 2002
Page 2 of 2

Question 2: If a shipper offers by marine a non-bulk package (such as a fiberboard box containing a gallon of packing group II paint) that is transported by ground and then once it reaches the port, the consolidator packs the shipment into a cargo transport unit at which time the consolidator affixes placards to the cargo transport unit, would DOT registration be required?

I appreciate your consideration of this matter.

Sincerely,



Andrew N. Romach
Regulatory Manager
URS Corporation