

Legal Lookout: DOT Eases Requirements for Security Plans

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When handling certain hazardous wastes, there may be a requirement to have a written and approved security plan.

On March 9, 2010, the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) narrowed its list of hazardous materials, or hazmats, that require security plans when transported in commerce. The new rule is effective on Oct. 1, 2010.

Currently, persons offering certain hazmats for transport in commerce must develop and implement security plans. PHMSA revised security plan requirements to align them with the Transportation Security Administration's Highway Security Sensitive Hazardous Materials program. The agency believed the changes would harmonize its security plan requirements with those of "high-consequence dangerous goods," for which enhanced security measures are recommended under the United Nations' Model Regulations on the Transport of Dangerous Goods.

Examples might be a highway-route controlled quantity of a Class 7 (radioactive) material; more than 25 kg of a Division 1.1, 1.2 or 1.3 (explosive) material; more than 1 liter per package of a material poisonous by inhalation in Hazard Zone A; a shipment in a bulk packaging with a capacity equal to or greater than 13,248 liters for liquids or gases or greater than 13.24 cu. meters for solids; a shipment in other than a bulk packaging of 2,268 kg gross weight or more of one class of hazardous materials that require placarding; a select agent or toxin regulated by the Centers for Disease Control and Prevention or a select agent or toxin regulated by the Department of Agriculture; or a shipment that requires placarding.

A security plan must include an assessment of possible transportation security risks and appropriate measures to address such threats. At a minimum, the security plan must address personnel security, unauthorized access and en-route security. For personnel security, the plan must include measures to confirm information provided by job applicants for positions involving access to and handling of the hazmats covered by the plan. For unauthorized access, the plan must include measures to address the risk of unauthorized persons gaining access to materials or transport conveyances being prepared for transportation. For en-route security, the plan must include measures to address security risks anticipated during transportation, including the security of shipments temporarily stored en route to their destinations.

Security plan revisions

The rule removes security plan requirements for some materials and increases the threshold above which plans are required for several classes of hazmats. For example, for several of the hazmat categories that are now subject to security plan requirements, the revisions will trigger security plans only when the hazmats are transported in "large bulk quantity." This phrase is

defined as a quantity greater than 3,000 kg for solids or 3,000 liters for liquids or gases in a single packaging, such as a cargo tank, portable tank, tank car or other bulk container.

One of the more significant changes involves Class 9 hazmats. Current regulations require security plans for Class 9 materials transported in a bulk packaging with a capacity equal to or greater than 13,248 liters for liquids or gases, or greater than 13.24 cubic meters for solids. The final rule eliminates existing security plan requirements for Class 9 materials.

Another major change narrows the scope of Class 8 (corrosive) hazmats that are subject to security plan requirements. Existing standards require security plans for placarded shipments of Class 8 materials in all packing groups (I, II and III). The final rule now triggers security plan requirements only for Class 8, Packing Group I corrosive materials shipped in a large bulk quantity.

Transporters and others should be appreciative of the lessened regulatory burdens. Interested stakeholders will want to review the new rule, and take advantage of its streamlined requirements. For more information, see www.phmsa.dot.gov/hazmat/regs/rulemaking/final. PE

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