



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

AUG 8 2003

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

Mr. Warren D. Graef, BAAS, CHMM
Graef E&S Consulting Services
12323 Meadow Gate
Stafford, Texas 77477

Reference No.: 03-0190

Dear Mr. Graef:

This responds to your letter concerning the applicability of new security requirements adopted in a final rule issued under Docket HM-232. Your letter states that your client produces crude oil and moves it via flow lines to a storage tank where it is accumulated. The accumulated crude oil is offered for sale to an oil refiner or other oil company. The buyer accepts, transfers and arranges for the oil to be transported to its own storage facilities. Specifically, you ask if your client is subject to the security requirements.

Assuming the crude oil meets the definition of a hazardous material under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), the answer is yes. The HMR, in the newly adopted § 172.800(b), require persons who offer for transportation or persons who transport hazardous materials in quantities that require placarding in accordance with subpart F, Part 172, of the HMR to develop and implement security plans. From your letter, it appears that the crude oil is being transferred to and transported in a cargo tank motor vehicle. Section 172.504 requires placarding of all bulk packagings, i.e., a packaging which has a maximum capacity greater than 450 L (119 gallons). Therefore, as an offeror, your client is subject to the security requirements. Also see Fact Pattern #3 on page 6762 of the enclosed formal interpretation.

As we suggested in the preamble to the HM-232 final rule, we expect offerors to work with carriers to address en route security risks for the materials covered by the security plan. The regulation provides the flexibility necessary to enable offerors and carriers to determine the best methods for addressing en route security issues. An offeror and carrier may have a joint plan or they may have two separate security plans. An offeror should satisfy itself that the carrier that will be transporting its material has a security plan in place that adequately addresses the assessed security risks of the material to be transported, including risks related to the storage of the material during transportation.

I hope this satisfies your inquiry.

Sincerely,

Hattie L. Mitchell
Chief, Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Enclosure



030190

172.800

GRAEF E&S CONSULTING SERVICES

12323 Meadow Gate
Stafford, Texas 77477
Telephone (281) 240-7171

Corbin
\$ 172,800
Security Plans
03-0190

July 17, 2003

Director for the Office of Hazardous Materials Security
Mr. Edward Mazzullo
US DOT/RSPA (PHM-10)
400 7th St. SW
Washington D.C. 20590

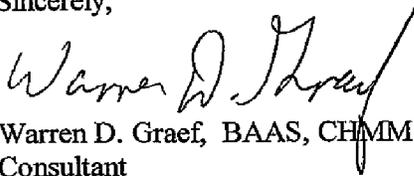
Re: HM-232 requirements for Security Plan

Dear Mr. Mazzullo:

I am an environmental and safety consultant with several Oil and Gas Production clients in Texas. We are aware of the new requirements stated in HM 232 but are having difficulty determining applicability to my client's operations. The client produces **CRUDE OIL** from geological formations below the surface of the earth and moves it into a storage tank via flow lines to a tank battery. When in the tank, it is accumulated until about 200 barrels or less have been accumulated where it is offered for sale to an oil refiner or other oil company. Custody of the oil physically transfers from my clients to the oil company at the tank. The amount of transfer is measured by a meter in the transfer line. The oil company buying the oil accepts transfer and arranges for transportation of the crude oil to its own storage facilities. My clients are not involved in the transfer operation and in many cases are not even on site when the material is transferred. We do not know if the truck hauling the material is placarded or not since transportation is not our responsibility but rather the responsibility of the custody company. With this in mind, are the requirements for a security plan applicable to my clients since they are neither in the transportation business nor packaging for shipment any hazardous materials? We would like a ruling and an official interpretation of the rule as it applies to Oil and Gas Production Companies.

Thank you for your assistance.

Sincerely,


Warren D. Graef, BAAS, CHMM
Consultant