



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

AUG 18 2016

Mr. Brett T. Lehman
Security, Regulatory & Compliance Manager
GEODynamics Inc.
Engineered Perforating Solutions
10500 West Interstate 20
Millsap, TX 76066

Reference No. 16-0039

Dear Mr. Lehman:

This letter is in response to your March 3, 2016, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to an overpack. Your particular scenario involves non-bulk packages of Division 1.4D explosives that are shrink-wrapped together on a warehouse skid. The packages of explosives are covered by § 172.504(e), Table 2, and have an aggregate gross weight over 1,001 lbs. Specifically, you ask whether the tarpaulin cover required by § 177.835(h) is considered an overpack, as defined in § 171.8, and therefore subject to the provisions of § 173.25.

The answer is no. The tarpaulin required by § 177.835(h) is considered environmental protection and is not an overpack. Likewise, if all the required marks and labels are visible on the packages through the shrink-wrapped skid protected by the tarpaulin cover, no further action is necessary. If any of the required marks and labels are not visible on the packages through the shrink-wrap, the shrink-wrapped skid is considered an overpack and is required to be marked and labeled for every shipping description in the overpack as prescribed in § 173.25(a)(2). Further, as prescribed in § 173.25(a)(4), the word "OVERPACK" is only required to be marked on the shrink-wrapped skid if package specification markings, when required, are not visible through the shrink wrap.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Stevens
\$173.25
Packaging Specs

Dodd, Alice (PHMSA)

16-0039

From: Foster, Glenn (PHMSA)
Sent: Tuesday, March 08, 2016 1:17 PM
To: Dodd, Alice (PHMSA); Goodall, Shante CTR (PHMSA)
Cc: Stevens, Michael (PHMSA)
Subject: Request for Interpretation Letter
Attachments: IMG_20160301_135642668.jpg; IMG_20160301_135609117_HDR.jpg; IMG_20160301_135625766.jpg; How to UNZIP.html; SecureZIP Attachments.zip

Importance: High

Alice / Shante,

Please have this letter checked in as a request for Interp and assign to Michael Stevens. This letter will serve as his next turn in the rotation of assigning letters.

Thanks,
Glenn

From: Brett Lehman [mailto:Brett.Lehman@perf.com]
Sent: Thursday, March 03, 2016 2:15 PM
To: Foster, Glenn (PHMSA)
Subject: Request for Interpretation Letter
Importance: High

Mr. Glenn Foster,

We are requesting an Interpretation Letter for the below:

We had a level 2 roadside conducted on March 1st with one of my driver's in Midland, TX. The trooper cited my driver for not properly marking an OVER-PACK.

However, I don't agree that this would be considered OVER-PACK. So the trooper is saying that they TARP is considered an OVER-PACK... He didn't remove the tarp to see that the boxes on the pallet were shrink wrapped and that you could clearly see all markings through the shrink wrap on the charge boxes. You can see in the pictures; we are completely placard. We have NEVER had to label OVER-PACK on the shrink wrap. I'm thinking, the way the tarp is wrapped around the charges, the trooper is considering this as an "OVER-PACK" but that's incorrect. The tarp is required by DOT to protect from weather, etc. We are required to see a Judge in April and I want to provide the Judge with an Interpretation letter to help us fight this citation.

The cite below clearly states that when a tarp is used placards are required, not "overpack." Even when using shrink wrap if the markings and labels are visible through the wrap you don't have to remark or label the exterior. The tarp is a required cover from the elements not an overpack because the tarp doesn't stay with the product once unloaded like an overpack does. All you need is a placard.

177.835(b) Class 1 materials

(1) Whenever tarpaulins are used for covering Class 1 (explosive) materials, they shall be secured by means of rope, wire, or other equally efficient tie downs. Class 1 (explosive) materials placards or markings required by §177.823 shall be secured, in the appropriate locations, directly to the equipment transporting the Class 1 (explosive) materials. If the vehicle is provided with placard boards, the placards must be applied to these boards.

§177.823 Movement of motor vehicles in emergency situations.

(a) A carrier may not move a transport vehicle containing a hazardous material unless the vehicle is marked and placarded in accordance with part 172 or as authorized in §171.12a of this subchapter

§173.25 Authorized packagings and overpacks

(2) The overpack is marked with the proper shipping name and identification number, when applicable, and is labeled as required by this subchapter for each hazardous material contained therein, unless marking and labels representative of each hazardous material in the overpack are visible.

§177.835 Class 1 materials

(h).....Class 1 (explosive) materials other than black powder may be transported on flat-bed vehicles if the explosive portion of the load on each vehicle is packed in fire and water resistant containers or covered with a fire and water resistant tarpaulin.

This information was also provided by Ernest G Quail – Hazardous Materials Investigator - Field Operations & Enforcement, Southern Region

BRETT T LEHMAN

Security, Regulatory & Compliance Manager

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Engineered Perforating Solutions

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TEXAS
FBR-7014

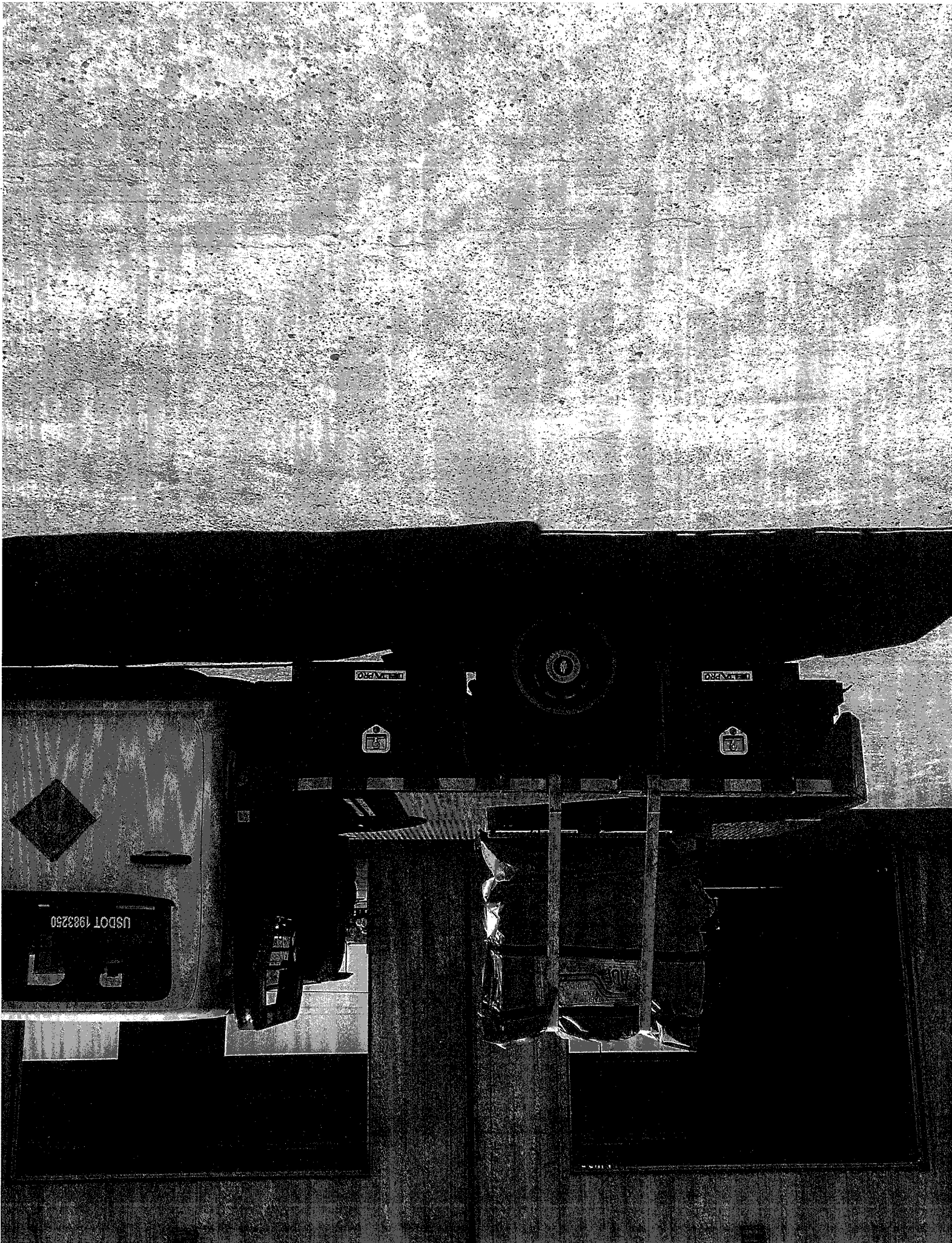
1.4
EXPLOSIVES
D

1
D
EXPLOSIVES

TEXAS
FBR-7014
The Lone Star State

GEDynamics

GEDynamics



Incar: TXDPS COMMERCIAL VEHICLE ENFORCEMENT Level
CVE-3(r38) 2



DATE: 2016-03-01 12:56
COUNTY: MIDLAND

TX4K0D0VBUQ4

CP# 0799750



RPT4K074J0VBU00017W

HWY: FM-1788 MP-324 in MIDLAND CO.

OWNER: GEODYNAMICS INC

Addr: 10500 WEST INTERSTATE 20 MILLSAP, TX 76066

NOTE TO MOTOR CARRIER: TRC Chapter 644 requires the Motor Carrier to execute the certification at the end and return this report to Texas Department of Public Safety, Motor Carrier Safety Section, PO Box 4087, Austin, Texas 78773-0001 within fifteen (15) days.

PHONE#: (817) 341-5300 USDOT#: 1983250 ICC/MC#: TXDMV#: 006646464c

DL#: 22386581 ST: TX CLASS: A
OPERATOR: ADAGBON, SUNDAY TANIMOLA

Address: 2512 REDFIELD DR MESQUITE, TX 75181-0000
RACE/SEX: BM DOB: 1965-11-28 MED CARD: 05/18/2016

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears on this report.

CDL Req'd CONSTRUCTION ZONE ALCH DS
 ACCIDENT YES NO OCCUPIED SW TE

UNIT	TYPE	MAKE	CO#	PLATE	ST	VIN
1	TR	CHEV	3127	FBR7014	TX	1GB4KYC86FF163127

Axles: X 0

RG WT #1	13200	GVWR #1	13200
RG WT #2		GVWR #2	

VIOLATIONS DISCOVERED

TICKET	VIOL. CITE #	Unit#	CCS	CCS DISP	POST ACC
Yes	172.400(a)	1			
FAIL TO PROPERLY LABEL A PACKAGE/CONTAINER OF HM (FMCSR 172.400(a)) - NO 1.4 LABEL ON OVERPACK					
	172.602(c)(1)	1			
MAINTENANCE OF EMERGENCY RESPONSE INFORMATION (FMCSR 172.602(c)(1)) - IN CLOSED CENTER CONSOLE					
	173.25(a)	1			
FAILED TO MEET OVERPACK CONDITIONS (FMCSR 173.25(a)) - MISSING UN# / PSN ON OVERPACK					
	173.25(a)	1			
FAILED TO MEET OVERPACK CONDITIONS (FMCSR 173.25(a)) - NO "OVERPACK" MARKING					

CCS A. Repaired at Scene / Obtained Oper. Auth. U. Unknown
DISPOSITIONS B. Towed/Escorted to Repair Service D. Other W. Driver CCS

SEAL #'S REMOVED: DEPT. SEAL #: INSTALLED

Shipping#: 4066
Commodity: EXPLOSIVES
Origin: MIDLAND, TX
Dest: MIDLAND, TX

HM CATEGORY	SPEC. TANK	PLACARDS REQ?	CODE	RQ?	HW?
NON BULK		<input checked="" type="checkbox"/>	1.4	<input type="checkbox"/>	<input type="checkbox"/>

INSPECTED BY: K MCCLATCHY ID/REGION/DISTRICT/AREA: 11871 4 A 01

CHARGES FILED BY: K McClatchy 11871 4 A 01

PREPARED BY: K McClatchy

Truoper Comments: TIME COMPLETED 14:02
40 BOX UN0440, CHARGES SHAPED, 1.4D, PG II 1096 LBS // 2 BOXES UN0323 CARTRIDGES POWER DEVICE 1.4S PGII / PACKAGES ARE ON PALLET AND THEN SHRINK WRAPPED TOGETHER AND THEN COVERED WITH TAN TARP CREATING AN OVERPACK. LABELS AND REQUIRED MARKINGS ARE NOT VISIBLE ON PACKAGES THUS MUST BE ON OUTSIDE OF OVERPACK. UN SPEC CODES FOR PACKAGES ARE NOT VISIBLE WITHIN OVERPACK THUS MUST BE MARKED "OVERPACK" ON OUTSIDE

YOU ARE HEREBY NOTIFIED TO APPEAR BEFORE
JUDGE: Hon. Terry Luck in Midland Co.
COURT: JP PCT./PLACE: 1/0 AT 10:00AM
PHONE: (432) 688-4721 ON/BEFORE Fri, 8 April, 2016
ADDRESS: 400 S. MAIN MIDLAND TX 79701

I HEREBY PROMISE TO APPEAR AT THE TIME AND PLACE DESIGNATED IN THIS NOTICE. (This is not a plea of guilty)

Incar TXDPS COMMERCIAL VEHICLE ENFORCEMENT Level
CVE-3(r88) 2



DATE: 2016-03-01 12:56

COUNTY: MIDLAND

TX4K0D0VBUQ4

CP# 0799750



RPT4K074J0VBU00017W

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Axles: X O

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11871 4 A 01

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