



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

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

AUG 5 2003

Mr. Donald Brittingham
Vice President
A.I.D., Inc.
P.O. Box 6047
Wilmington, DE 19804

Ref. No: 03-0177

Dear Mr. Brittingham:

This is in response to your July 16, 2003 letter requesting clarification of the requirements in § 172.802(a)(3) in the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask to what extent must a shipper go to ensure that a carrier's security plan is adequate.

As we suggested in the preamble to the HM-232 final rule, we expect shippers to work with carriers to address en route security risks for the materials covered by the security plan. In some cases, a shipper and carrier may have a joint plan; in others, a shipper and carrier may have two separate security plans. The regulation provides the flexibility necessary to enable shippers and carriers to determine the best methods for addressing en route security issues. A shipper 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 storage of the material during transportation.

Our website, at http://hazmat.dot.gov/hmt_security.htm, includes a variety of information and guidance to assist persons in complying with the new security regulations. For example, we have developed a risk management self-evaluation framework to assist companies with using risk assessment methodology to identify points in the transportation process where security procedures should be enhanced. A guidance brochure is available that includes specific measures a company may want to consider to enhance transportation security. A computer-based security awareness CD-ROM that can be used to satisfy the security awareness training requirements in § 172.704(a)(4), is available to the public at no charge; it can be downloaded from our website or ordered on-line or by calling the Office of Hazardous Materials Training and Initiatives at 202-366-4900.

I hope this satisfies your request.

Sincerely,

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



030177

172-802

A.I.D., Inc.

P. O. Box 6047
Wilmington, DE 19804
1-302-743-2935
1-302-894-4211 Fax

Beatts
§ 172.802 (3)
Security Plans
03-0177

July 21, 2003

Mr. Edward T. Mazzullo

Director, Office of Hazardous Materials Standards
U. S. DOT/RSPA (DHM-10)
400 7th Street S. W.
Washington, DC 20590-0001

Dear Sir:

I am requesting a written answer (interpretation) to what appears to be a contradiction between what the New Security Regulation (HM-232) implies in 49 CFR 172.802 (3) quoted below and comments made by your office in public forums.

Regulatory Quote:

"En route security. Measures to address the assessed security risks of shipments of hazardous materials covered by the security plan en route from origin to destination, including shipments stored incidental to movement."

Since the regulation does not distinguish between shipper and carrier responsibilities reading the plan, especially the quoted passage above one can assume the plan requires both parties to take into consideration and include in their plan some form of risk analysis for all listed product groups from the time they are loaded to the time they are received by the customer.

Public forum comments made by members of your staff claim a shipper may exclude from its transportation security plan any risk/security analysis assessment on its outbound shipments beyond its gate, if it can verify in writing that all carriers transporting its materials have a written security plan in place and said plan includes a proper risk analysis covering the shipper's products?

If they can, to what depths must the shipper go, beyond the written certification mentioned above, to make sure the carriers plan is adequate?

Sincerely,



Donald Brittingham
V/President