



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

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

APR 13 2004

Mr. Stephen J. Brown
Assistant Director of Safety
Hubbard Construction Company
Jacksonville Division
P.O. Box 60429
Jacksonville, FL 32236-0429

Ref. No. 03-0215

Dear Mr. Hubbard:

This responds to your letter requesting clarification of the security plan requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the security plan requirements of § 172.800 of the HMR apply to a private carrier of hazardous materials. Your company transports gasoline and diesel fuel in placarded vehicles used to service a fleet of construction vehicles. It is your understanding that the security plan requirements of the HMR apply to for-hire carriers only. I apologize for the delay in responding and any inconvenience it may have caused.

The answer to your question is yes. As of September 25, 2000, any "person" who offers for transportation in commerce or transports in commerce one or more of the materials or criteria specified in § 172.800(b) must develop and adhere to a security plan for hazardous materials. A person is defined as an individual, firm, co-partnership, corporation, company, association, or joint-stock association (including any trustee, receiver, assignee, or similar representative) that transports a hazardous material to further a commercial enterprise or offers a hazardous material for transportation in commerce. This includes private carriers. We welcome you to visit our website <http://hazmat.dot.gov> and review the information and guidance provided under the security link.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

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



030215

172.800



Stevens
§ 172.800
Security Plans
03-0215

FAX

September 5, 2003

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

FAX: 202-366-3012

Reference: HM-232 Hazardous Material Security Regulations

Dear Mr. Mazzullo:

Hubbard Construction is a construction firm engaged in highway and underground construction in Florida. To support our operations, we have a fleet of fuel and lube trucks that carry fuel to the field to service our equipment. We do not service or provide fuel to any other company. Our fuel trucks are placarded vehicles, carrying up to 1,450 gallons of diesel fuel and/or 800 gallons of gasoline.

In review of the new Part 172 regulations regarding a security plan, we note that section 172.800 (b), *Applicability*, states that the written plan is required for "each person who offers for transportation in commerce or transports in commerce one or more..." we are requesting an interpretation of this section. It appears to require compliance with the regulations only if one of the seven categories of hazardous materials are carried for hire or are released to a for-hire carrier.

Your assistance in determining our need to comply with this standard is appreciated.

A handwritten signature in black ink, appearing to read 'S. J. Brown', is written over a large, faint, circular stamp or watermark.

Stephen J. Brown
Assistant Director of Safety

Jacksonville Division

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