



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

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

OCT 22 2003

Mr. Richard Moskowitz
Assistant General Counsel &
Regulatory Counsel
American Trucking Associations (ATA)
2200 Mill Road
Alexandria, VA 22314

Ref. No. 03-0231

Dear Mr. Moskowitz:

This is in response to your September 15, 2003, letter regarding the applicability of the in-depth security training requirements specified under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the in-depth security training requirements are applicable to all hazmat employees or only those hazmat employees whose job functions involve having access to and handling of materials covered by the security plan.

The requirement for in-depth security training is limited to hazmat employees who handle hazardous materials covered by a security plan or are responsible for implementation of a security plan. In-depth security training must include company security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breach, and the organizational security structure.

I hope this satisfies your request.

Sincerely,

John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards



030231

172.704



BAH
§ 172.704
Security Training
03-0232

September 15, 2003

Via Facsimile: (202) 366-3012

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W.
Washington, DC 20500

RE: Interpretation of HM-232 – HazMat Security Plan Training Requirements

I am writing on behalf of the motor carrier members of the American Trucking Associations (ATA) to request an informal opinion concerning the implementation of the Research and Special Programs Administration's ("RSPA") requirement that motor carriers provide in-depth training to each of their hazardous materials ("hazmat") employees on the details of their hazardous materials security plans required under 49 C.F.R. § 172.800.¹

ATA is the trade association representing the American trucking industry.² As the national representative of the trucking industry, ATA is interested in matters affecting the nation's trucking fleet, including the implementation of the new safety and security requirements affecting the transportation of hazardous materials.

As you are aware, 49 C.F.R. § 172.800 *et seq.* requires motor carriers transporting placarded amounts of hazardous materials to develop a security plan. The requirement to develop a security plan is coupled with a requirement to provide certain employees with "in-depth security training."

By December 22, 2003, each hazmat employee of a person required to have a security plan in accordance with subpart

¹ 68 *Federal Register* 14510 (March 25, 2003) ("HM-232).

² ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Its membership includes more than 1,700 trucking companies and industry suppliers of equipment and services. Directly and through its affiliated organizations, ATA encompasses over 34,000 companies and every type and class of motor carrier operation.

I of this part must be trained concerning the security plan and its implementation. Security training must include company security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breach, and the organizational security structure.³


In several follow-on meetings with RSPA, FMCSA and TSA personnel, it has become clear that the contents of the security plan should be disclosed to a motor carrier's employees only on a "need to know" basis. In fact, it might be deemed inappropriate to provide drivers with the details of the company's driver applicant security screening procedure. Similarly, providing all company employees with the procedures drivers should use in communicating a suspicious incident potentially compromises the security of that procedure.

Although RSPA, FMCSA and TSA consistently have stated that the motor carrier should train its employees on the details of the security plan that they need to know, the text of the rule as promulgated could be read to require in-depth training on the specific security procedures as set forth in the motor carriers security plan for all of the motor carrier's hazmat employees.

We ask RSPA to confirm that the in-depth training requirement is to be read more narrowly than the requirement to apply security awareness training to all hazmat employees. **Specifically, we ask RSPA to confirm that the motor carrier has the discretion to tailor its in-depth security training to its employees and to exclude certain hazmat employees from some or all of the in-depth training, depending upon that individual's job functions and how they relate to the security plan.**

As you know, the requirement to implement a hazardous materials security plan under HM-232 must be met by September 25, 2003, and in-depth security training must be accomplished by December 22, 2003. Because of the need to comply with this regulatory deadline, we would appreciate your opinion on the questions raised herein as soon as possible. If you require additional information on these issues, please call me at 703-838-1910.

Respectfully submitted,



Richard Moskowitz
Assistant General Counsel &
Regulatory Affairs Counsel

³ 49 C.F.R. § 172.704(a)(5).