



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP 13 2006

Mr. Scott Geshrick
Safety Specialist
Duplainville Transport, Inc.
N63 W23075 Main Street
Sussex, WI 53089

Ref. No.: 06-0177

Dear Mr. Geshrick:

This responds to your letter dated July 21, 2006, regarding the components of a Hazardous Materials Security Plan as prescribed under Subpart I of Part 172 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for clarification on how "detailed" a security plan should be from the perspective of the shipper. Your questions are paraphrased and answered as follows:

- Q1. Section 172.802(a) requires a security plan to include an assessment of possible transportation security risks for covered shipments of hazardous materials. Should this assessment identify risk and vulnerability by material or based on threats associated with the specific material or both? May security measures be based on the hazard class of a material or must they be considered for each individual material?
- A1. The HMR set forth general requirements for a security plan's components rather than a prescriptive list of specific items that must be included. The HMR set a performance standard providing offerors and carriers with the flexibility necessary to develop security plans addressing their individual circumstances and operational environments. Accordingly, each security plan will differ because it will be based on an offeror's or a carrier's individualized assessment of the security risks associated with the specific hazardous materials it ships or transports and its unique circumstances and operational environment.

The risk assessment on which your security plan is based should list the materials or classes of materials you offer for transportation or transport and an evaluation of the possible security risks associated with each material or class of materials. The risk assessment need not address threats associated with a specific material or class of materials; rather, the risk assessment should identify more generalized security risks for each material or class of materials. However, you may consider risks and vulnerabilities based on threats associated with specific materials or



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172.802

classes of materials if you believe such an assessment is more appropriate to the types of materials you handle.

- Q2. Is an offeror (shipper) responsible for en route security only to the extent that a material is in a state of pre-transportation; or does the regulatory intent extend to the material en route under a motor carrier's control until the material or product reaches its destination?
- A2. 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 addresses the transportation of the material or materials to be shipped.
- Q3. At what point may a shipper of a hazardous material be satisfied that it has met the regulatory requirements for a security plan?
- A3. A shipper or carrier must use its own professional judgment to determine whether the security plan it develops satisfies the regulatory requirements in Subpart I of Part 172 of the HMR. The flexibility provided in the regulations permits a company to implement a security plan tailored to its specific circumstances and operations.

A variety of information and guidance to assist you to comply with the security plan requirements is on our website at http://hazmat.dot.gov/hmt_security.htm. As you are aware, a risk management self-evaluation framework was developed to assist companies to use risk assessment methodology to identify points in the transportation process where security procedures should be enhanced.

- Q4. Do we consider low risk material that would be considered consumer commodities, or only consider those materials in placardable quantities?
- A4. Those shipments that are listed as triggering the registration requirements in Subpart G of Part 107 are subject to security plan requirements. As specified in §172.800, the covered shipments and appropriate security measures include a quantity of hazardous material that requires placarding as prescribed in Subpart F of Part 172. Consumer commodities do not require placarding and are not subject security plan requirements. Note that for covered hazardous materials, your risk

assessment could well conclude that, for some materials or classes of materials, the transportation security risk is not significant and extensive security measures are not warranted.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



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§172.802
Security Plans
06-0177

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Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S.DOT / PHMSA (PHH-10)
400 7th Street S.W.
Washington, DC 20590-0001

July 21, 2006

Re: Clarification of 49 CFR 172.800 and 172.802

Dear Mr. Mazzullo:

I am writing to your office for clarification of the components of a Hazardous Materials Security Plan as defined in the applicable sections of the HMR.

We fall under the purpose and applicability definitions defined in 172.800 for a shipper and carrier of "a quantity of hazardous material that requires placarding", And as such we understand that we are required to have a security plan.

Our confusion comes from a debate as to how "detailed" our plan needs to be from a shipping or offeror perspective. In 172.802 the regulations state what components a security plan must incorporate, however, the regulation can be vague in its statement in paragraph (a):

"The security plan must include an assessment of possible transportation security risks for shipments of the hazardous materials listed in 172.800 and appropriate measures to address the assessed risks. Specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. At a minimum, a security plan must include the following elements:

Personnel security,... Unauthorized Access,... En Route security..."

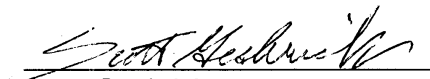
We feel that this paragraph may be interpreted to mean several things dependant upon the reader's viewpoint. We have read RSPA's Self Evaluation Framework and have applied it to our initial security plan of 2003, however, we are currently debating whether the regulatory intent of the above paragraph is to identify risk and vulnerability by material or by threat associated with the material or both? In addition is it the regulatory intent of the paragraph to mean that each individual material is required to have specific measures in place based upon the threat or based upon the specific likelihood of occurrence associated with the specific risks assessed to each material?

Our next question is in reference to unauthorized access. Is a shipper or offeror responsible for en route security only to the extent that material is in a state of pre-transportation? Or does the regulatory intent extend to the material en route under a motor carriers control and until the material or product reaches its destination?

Finally, at what point may a shipper or offeror of a hazardous material be satisfied that it has met the regulatory requirements satisfactorily for a hazardous material security plan? Do we have to consider relatively low risk materials that would be considered consumer commodities or do we need only consider those materials in placardable quantities? Can security measures be based upon hazard class of a material or must they be considered for each material individually?

Please feel free to contact me with any questions that you may have in order to expedite our request for clarification.

Respectfully,

A handwritten signature in cursive script, appearing to read "Scott Geshrick", is written over a horizontal line.

Scott Geshrick
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