



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUN 26 2006

Mr. Jay Muratore
Motor Carrier Compliance & Safety Co.
104 W. Water Street
Oak Harbor, OH 43449

Ref. No. 06-0132

Dear Mr. Muratore:

This responds to your May 30, 2006 letter requesting clarification of the security plan requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You provided a sample of a risk assessment template you provide to your clients and seek clarification on whether it conforms to the HMR requirements.

The requirement to develop and implement a security plan applies to persons who offer for transportation or transport the hazardous materials specified in § 172.800 of the HMR. Each security plan must include an assessment of possible transportation security risks for shipments of the listed hazardous materials and appropriate measures to address those risks. At a minimum, each security plan must address personnel security, unauthorized access, and *en route* security.

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 shippers and carriers with the flexibility necessary to develop security plans addressing their individual circumstances and operational environment. Accordingly, each security plan will differ because it will be based on a shipper'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. For companies with more than one facility where a hazardous material listed in § 172.800 is offered for transportation in commerce, each facility should have a security plan tailored to the specific hazardous materials handled at the facility, the physical characteristics of the facility, and the operational procedures in place at the facility. A facility may utilize a security plan template developed by its corporate leadership for all facilities owned by the corporation or an industry association or other third-party with security planning expertise. However, each facility must adapt such templates to ensure its security plan addresses any security vulnerabilities unique to that facility.



060132

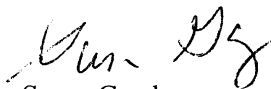
172.802

The sample risk assessment template you provided does not appear to be sufficient for purposes of developing a security plan that fully conforms to the HMR requirements. For example, typically, a risk assessment will include a listing of the specific materials handled by the facility or carrier and an evaluation of the security risks associated with each material. Since security risks will vary for different materials, this is a critical component. Your template does not appear to include this step. Similarly, a risk assessment should include detailed information about the scope of a facility's operations, including quantities of materials transported and baseline security and safety programs already in place at the facility. Your template does not appear to include this step.

To assist the industry in complying with the security plan requirements, PHMSA developed a security plan template to illustrate how risk management methodology could be used to identify areas in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The security template is posted in the docket and on the PHMSA website at <http://hazmat.dot.gov/rmsef.htm>.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



Susan Gorsky
Regulations Officer
Office of Hazardous Materials Standards

Drakeford, Carolyn <PHMSA>

Leary
§172.802
Security Plans
06-0132

From: Gorsky, Susan <PHMSA>
Sent: Friday, June 02, 2006 3:17 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: interpretation of security plans

Attachments: Risk-cover Letter.doc



Risk-cover
Letter.doc (30 KB)

-----Original Message-----

From: jay Muratore [mailto:jay@motorcarrieronline.com]
Sent: Tuesday, May 30, 2006 4:39 PM
To: Gorsky, Susan <PHMSA>
Cc: Simmons, James <FMCSA>; Skeggs, Stewart <PHMSA>
Subject: interpretation of security plans

Susan,

Per our conversation we had on Tue. May 23rd. in regards to security plans. I am requesting an interpretation of the actual requirements needed for a risk assessment!
We offer a security plan for many of haz-mat clients, enclosed is a "small example" of our how our risk assessment is presented.

We have run into issues with enforcement with our policy not being "personalized" enough!

I seek guidance and/or advice to the accuracy/compliance of our risk assessment!

We understand that Security Plans cannot be "canned" We advise all our clients that we cannot complete the plan. That is something that must be completed by them personally. Enclosed is a copy of the letter that accompanied each plan.

We believe that our plan is judged by enforcements personal opinion verses the actual laws that that are set forth!

* Personnel Security Assessment:

Personnel security includes confirmation of identity and credentials. The initial Driver Qualification file should have all the pertinent information to research his/her background history for consideration of employment.

Check Yes or No to questions below:

> Are employment applications fully completed with at least 10 years of continuous

employment and confirmed 3 years back ?

Yes_____ No_____

Recommendation :_____

* En route Security Assessment:

A vehicle in transit represents not just a moving target, but a critical space in constant exposure to an uncontrolled environment harboring

a diversity of threats.

When defining primary risks it is important to remember that the cargo is the prime source of consequential damage.

> Are your drivers doing pre-inspections and checking for any unauthorized devices attached to their CMV or maintenance problems before leaving your home base?

Yes _____ No _____

Recommendation: _____

* Facility Assessment for Unauthorized Access

Measures to address the assessed risk that unauthorized persons may gain access to the hazardous material in storage or vehicles being prepared to be shipped with hazardous materials.

> Are employees always on the alert for non-authorized persons loitering on or by company property?

Yes _____ No _____

Recommendation: _____

* Additional Security Risk to En route Security

> Risk: _____

Recommendation: _____

Motor Carrier Compliance & Safety Co.

MAIN OFFICE

104 W. Water Street.
Oak Harbor, OH 43449
419-898-1570
www.motorcarrieronline.com

BRANCH OFFICE

4101 Fourth Avenue
Lake Ariel, PA 18436
570-689-7690
bob@motorcarrieronline.com

Important Guidelines

HM 232 Security Plan

Even though a security plan is in place a written risk assessment of each facility must be completed and be part of your plan. MCCS has written a risk assessment guideline that needs to be completed by an official of your company and inserted in your security plan.

No two hazmat companies have the same security issues. The ones listed in the following risk assessment, every company should adhere to, but additional security risks could be present at your location. There is sufficient space to add any risks you find not listed. When you add any risks to your risk assessment make sure you add them to your security plan in the proper sections.

This risk assessment follows the main guidelines listed in your security plan.

You need to go through the following pages and answer the questions pertaining to the required main subject. All questions pertain to the recommendations or company policies your company has in the plan. Most questions can be answered yes, but if one is answered no you must put in a recommendation and add it to your security plan.

If any main guideline needs to be addressed for further risk assessments, which you or your company deems necessary to complete your individual plan, there is space under each guideline for you to insert a risk factor and recommendation. This recommendation must be placed in your security plan in the appropriate guideline section. Pages are provided for these additional company policies.

This should not take you very long to fill out and place in your Security Plan manual, but be careful to look at your whole operations and include all security risks.

Remember this is a requirement of HM-232 Regulations, but it is your responsibility to update and make changes to your Security Plan when changes occur in your operation.

MCCS will continue to update you on any federal changes when applicable, but we seldom know if you make or change company policies affecting your plan.

Yours in Safety: Motor Carrier Compliance & Safety Co.