

172-80V



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

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

MAY 22 2003

Mr. Alan I. Roberts  
President  
Dangerous Goods Advisory Council  
1101 Vermont Ave NW, Suite 301  
Washington, DC 20005-3521

Dear Mr. Roberts:

This is in further response to your email of March 28, 2003, concerning new security requirements adopted in a final rule issued under Docket HM-232. You asked about the applicability of the HM-232 security requirements, including security training requirements, to government employees, such as employees of the Department of Defense.

Under the HM-232 final rule, persons who offer for transportation or transport certain hazardous materials in commerce must develop and implement security plans. In addition, the HM-232 final rule requires all hazmat employees to receive security awareness training; additional training is required for hazmat employees who handle or perform regulated functions related to the transportation of hazardous materials covered by a security plan or who are responsible for implementing the security plan.

As you know, the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) apply to the commercial transportation of hazardous materials. Transportation performed by government or military employees for government or military purposes is not transportation in commerce and, therefore, not subject to the HMR. Thus, the security requirements adopted under the HM-232 final rule do not apply to transportation performed by Federal, state, or local government personnel when such transportation furthers a government purpose. However, transportation performed by contractors on behalf of Federal or state agencies is subject to all applicable HMR requirements, including the HM-232 security requirements, as is transportation of government shipments of hazardous materials when performed by commercial carriers. If a commercial carrier transports a government shipment, a government employee who prepares the shipment for transportation is fully

subject to the HMR. Such an employee meets the definition of "hazmat employee" in § 171.8 of the HMR and is subject to training requirements, including security training requirements.

I hope this information is helpful. If you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. McGuire". The signature is fluid and cursive, with a large initial "R" and "M".

Robert A. McGuire  
Associate Administrator for  
Hazardous Materials Safety