



U.S. Department of Transportation  
**Pipeline and Hazardous Materials  
Safety Administration**

1200 New Jersey Ave, SE  
Washington, D.C. 20590

DEC 29 2010

Ms. Anjali Shaykher Zutshi  
General Attorney  
National Nuclear Security Administration  
U. S. Department of Energy  
1000 Independence Ave. S.W. (NA-3.1)  
Washington, D.C. 20585

Ref. No.: 10-0205

Dear Ms. Zutshi:

This responds to your e-mail requesting guidance on Part 172, Subpart I, of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask questions regarding overlapping security plan requirements that are applicable to both shippers and carriers. Your questions are restated and answered as follows:

- Q1. Does PHMSA expect a carrier to do a threat assessment on the shipper's facility and a shipper to do a threat assessment on the carrier's route?
- A1. No. In the situation you describe, the carrier is responsible for assessing risk for transportation activities which it controls, as is the offeror.
- Q2. What methodology should be used when conducting risk assessments?
- A2. The security plan must include an assessment of transportation security risks. For an example of the methodology that should be used when conducting risk assessments, we direct you to the "Risk Management Self-Evaluation Framework (RMSEF)" on our website. The framework illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF is posted on our website at the following URL:  
<http://www.phmsa.dot.gov/hazmat/risk/rmsef>.

Other risk assessment tools are equally valid. We do not require persons subject to the security plan requirement to use a specific risk assessment tool to meet the risk assessment requirement.

- Q3. Do they rely on national threat levels?

A3. The security plan provisions in Subpart I of Part 172 of the HMR require each person who offers for transportation or transport certain hazardous materials in commerce to implement a security plan. The security plan must include an assessment of possible transportation security risks and appropriate measures to address the assessed risks. The security plan requirements are not directly tied to the national threat level. However, specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. The security plan must, at a minimum, address personnel security, unauthorized access, and en route security.

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

Sincerely,

A handwritten signature in black ink that reads "Ben Supko". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Ben Supko  
Acting Chief, Standards Development Branch  
Standards and Rulemaking Division

Engrum  
§172.800  
Security Plans  
10-0205

**Drakeford, Carolyn (PHMSA)**

**From:** Supko, Ben (PHMSA)  
**Sent:** Wednesday, September 22, 2010 1:13 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Cc:** Betts, Charles (PHMSA); Solomey, Joe (PHMSA)  
**Subject:** FW: Inquiry Re: 49 CFR Part 172

**From:** Shaykher, Anjali [mailto:Anjali.Shaykher@nnsa.doe.gov]  
**Sent:** Tuesday, September 07, 2010 1:41 PM  
**To:** Samaras, Amelia (PHMSA)  
**Cc:** Tynan, Douglas; Urie, Matthew; Tensmeyer, Peter  
**Subject:** Inquiry Re: 49 CFR Part 172

Amelia,

Thank you for agreeing to provide written guidance. As I mentioned to you, I am interested in receiving DOT's interpretation of updated regulation 49 CFR 172.800. Specifically, I am concerned about how to implement a security plan's threat assessment requirements. Accepting that when a shipper and carrier are not the same entity, there can be an overlap in the security plan, there remains some very basic questions:

- a. How does DOT expect a carrier to do a threat assessment on the shipper's facility and
- b. A shipper to do a threat assessment on the carrier's route
- c. What does DOT expect the shipper and carrier to assess, in the way of threat, for the "enroute threat assessment," e.g., must it be done for every shipment, or can a carrier rely on LLEA on authorized hazmat routes?
- d. Do they rely on the national threat levels (see the last paragraph of page 7 in the attached)

I have attached guidance (that was released before the revision) which should shed more light on my concerns. The threat assessment process described there is very basic, but at least is a process a layman can use; to what effect is another question. Any insight you can share regarding all the aforementioned would be greatly appreciated.

Thanks,  
Anjali

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