



Dangerous Goods Advisory Council

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July 13, 2006

Andrew E. Colsky
Chief, SSI Program Office
Transportation Security Administration
601 South 12th Street
Arlington, VA 22202-4220

Roger Bohnert
Acting Director, Office of Intelligence, Security,
and Emergency Response
US Department of Transportation
400 Seventh Street S.W.
Washington, DC 20590

Dear Messrs. Colsky and Bohnert:

The Dangerous Goods Advisory Council (DGAC) appreciates your joint response of March 24, 2006 to our inquiry of September 21, 2005 on the applicability of Security Sensitive Information (SSI) requirements in 49 CFR Part 15 and 49 CFR Part 1520 to hazardous materials security plans (hazmat security plans) prepared in accordance with 49 CFR 172.800 to 172.804 of the Hazardous Materials Regulations. We would appreciate further clarification of one point in your response letter.

Your letter states that SSI requirements do not apply categorically to hazmat security plans. It then goes on to say that the SSI regulations do apply to the extent that the PHMSA security plan constitutes a vulnerability assessment as defined in 49 CFR 15.3, 15.5(b)(5), 1520.3 and 1520.5(b)(5). It is the latter statement that causes confusion.

Under §172.802(a) of the HMR hazmat security plan requirements, “the security plan must include an assessment of possible transportation security risks.” Under the SSI requirements in §15.3 and §1520.3, vulnerability assessment “means any review, audit, or other examination of the security” of a transportation related asset. Based on the similarity of terms used in the HMR and SSI requirements, any hazmat security plan assessment of the possible transportation security risks could be considered to be a vulnerability assessment. Further, §15.5(b)(5) and §1520.5(b)(5) require vulnerability assessments “directed, held, funded or approved” by the DOT or DHS to be treated as SSI. While hazmat security plans are not normally “held, funded or approved” by the DOT or DHS, they are “required” by DOT. If assessments of possible transportation security risks “required” by the DOT are considered to have been “directed” by the DOT and these assessments are considered to constitute vulnerability assessments, then all hazmat security plans could be considered to be subject to SSI requirements.

This conclusion is contradictory to your statement that hazmat security plans are not categorically subject to the SSI regulations. We would appreciate your clarifying your interpretation of the requirements in this respect.

Sincerely,

A handwritten signature in black ink that reads "Michael Morrisette". The signature is written in a cursive, slightly slanted style.

Michael Morrisette
President