

§ 1520.11

(2) Inform the sender of the record that the record must be marked as specified in § 1520.13.

(c) *Duty to report unauthorized disclosure.* When a covered person becomes aware that SSI has been released to unauthorized persons, the covered person must promptly inform TSA or the applicable DOT or DHS component or agency.

(d) *Additional Requirements for Critical Infrastructure Information.* In the case of information that is both SSI and has been designated as critical infrastructure information under section 214 of the Homeland Security Act, any covered person who is a Federal employee in possession of such information must comply with the disclosure restrictions and other requirements applicable to such information under section 214 and any implementing regulations.

§ 1520.11 Persons with a need to know.

(a) *In general.* A person has a need to know SSI in each of the following circumstances:

(1) When the person requires access to specific SSI to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(2) When the person is in training to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(3) When the information is necessary for the person to supervise or otherwise manage individuals carrying out transportation security activities approved, accepted, funded, recommended, or directed by the DHS or DOT.

(4) When the person needs the information to provide technical or legal advice to a covered person regarding transportation security requirements of Federal law.

(5) When the person needs the information to represent a covered person in connection with any judicial or administrative proceeding regarding those requirements.

(b) *Federal, State, local, or tribal government employees, contractors, and grantees.* (1) A Federal, State, local, or tribal government employee has a need to know SSI if access to the information is necessary for performance of

49 CFR Ch. XII (10–1–13 Edition)

the employee's official duties, on behalf or in defense of the interests of the Federal, State, local, or tribal government.

(2) A person acting in the performance of a contract with or grant from a Federal, State, local, or tribal government agency has a need to know SSI if access to the information is necessary to performance of the contract or grant.

(c) *Background check.* TSA or Coast Guard may make an individual's access to the SSI contingent upon satisfactory completion of a security background check or other procedures and requirements for safeguarding SSI that are satisfactory to TSA or the Coast Guard.

(d) *Need to know further limited by the DHS or DOT.* For some specific SSI, DHS or DOT may make a finding that only specific persons or classes of persons have a need to know.

[69 FR 28082, May 18, 2004, as amended at 70 FR 1382, Jan. 7, 2005; 73 FR 72173, Nov. 26, 2008]

§ 1520.13 Marking SSI.

(a) *Marking of paper records.* In the case of paper records containing SSI, a covered person must mark the record by placing the protective marking conspicuously on the top, and the distribution limitation statement on the bottom, of—

(1) The outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover;

(2) Any title page; and

(3) Each page of the document.

(b) *Protective marking.* The protective marking is: SENSITIVE SECURITY INFORMATION.

(c) *Distribution limitation statement.* The distribution limitation statement is:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies,