

provisions of 31 U.S.C. 9701 and other applicable Federal law.

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## PART 1580—RAIL TRANSPORTATION SECURITY

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AUTHORITY: 49 U.S.C. 114.

SOURCE: 73 FR 72173, Nov. 26, 2008, unless otherwise noted.

### Subpart A—General

#### § 1580.1 Scope.

(a) Except as provided in paragraph (b) of this section, this part includes requirements for the following persons. Appendix B of this part summarizes the general requirements for each person, and the specific sections in this part provide detailed requirements.

(1) Each freight railroad carrier that operates rolling equipment on track

that is part of the general railroad system of transportation;

(2) Each rail hazardous materials shipper that offers, prepares, or loads for transportation in commerce by rail one or more of the categories and quantities of rail security-sensitive materials set forth in §1580.100(b) of this part;

(3) Each rail hazardous materials receiver, located within a High Threat Urban Area (HTUA) that receives in commerce by rail or unloads one or more of the categories and quantities of rail security-sensitive materials set forth in §1580.100(b) of this part;

(4) Each passenger railroad carrier, including each carrier operating light rail or heavy rail transit service on track that is part of the general railroad system of transportation, each carrier operating or providing intercity passenger train service or commuter or other short-haul railroad passenger service in a metropolitan or suburban area (as described by 49 U.S.C. 20102), and each public authority operating passenger train service;

(5) Each passenger or freight railroad carrier hosting an operation described in paragraph (a)(4) of this section;

(6) Each tourist, scenic, historic, and excursion rail operator, whether operating on or off the general railroad system of transportation;

(7) Each operator of private cars, including business/office cars and circus trains, on or connected to the general railroad system of transportation; and

(8) Each operator of a rail transit system that is not operating on track that is part of the general railroad system of transportation, including heavy rail transit, light rail transit, automated guideway, cable car, inclined plane, funicular, and monorail systems.

(b) This part does not apply to a freight railroad carrier that operates rolling equipment only on track inside an installation that is not part of the general railroad system of transportation.

#### § 1580.3 Terms used in this part.

For purposes of this part:

*Commuter passenger train service* means “train, commuter” as defined in 49 CFR 238.5, and includes a railroad operation that ordinarily uses diesel or

electric powered locomotives and railroad passenger cars to serve an urban area, its suburbs, and more distant outlying communities in the greater metropolitan area. A commuter operation is part of the general railroad system of transportation regardless of whether it is physically connected to other railroads.

*General railroad system of transportation* means the network of standard gage track over which goods may be transported throughout the Nation and passengers may travel between cities and within metropolitan and suburban areas. See 49 CFR part 209, Appendix A.

*Hazardous material* means “hazardous material” as defined in 49 CFR 171.8.

*Heavy rail transit* means service provided by self-propelled electric railcars, typically drawing power from a third rail, operating in separate rights-of-way in multiple cars; also referred to as subways, metros, or regional rail.

*High Threat Urban Area (HTUA)* means an area comprising one or more cities and surrounding areas including a 10-mile buffer zone, as listed in appendix A to this part.

*Improvised explosive device* means a device fabricated in an improvised manner that incorporates explosives or destructive, lethal, noxious, pyrotechnic, or incendiary chemicals in its design, and generally includes a power supply, a switch or timer, and a detonator or initiator.

*Intercity passenger train service* means both “train, long-distance intercity passenger” and “train, short-distance intercity passenger” as defined in 49 CFR 238.5.

*Light rail transit* means service provided by self-propelled electric railcars, typically drawing power from an overhead wire, operating in either exclusive or non-exclusive rights-of-way in single or multiple cars and with shorter distance trips and frequent stops; also referred to as streetcars, trolleys, and trams.

*Offers or offeror* means:

(1) Any person who does either or both of the following:

(i) Performs, or is responsible for performing, any pre-transportation function for transportation of the hazardous material in commerce.

(ii) Tenders or makes the hazardous material available to a carrier for transportation in commerce.

(2) A carrier is not an offeror when it performs a function required as a condition of acceptance of a hazardous material for transportation in commerce (such as reviewing shipping papers, examining packages to ensure that they are in conformance with the HMR, or preparing shipping documentation for its own use) or when it transfers a hazardous material to another carrier for continued transportation in commerce without performing a pre-transportation function. See 49 CFR 171.8.

*Passenger car* means rail rolling equipment intended to provide transportation for members of the general public and includes a self-propelled car designed to carry passengers, baggage, mail, or express. This term includes a passenger coach, cab car, and a Multiple Unit (MU) locomotive. In the context of articulated equipment, “passenger car” means that segment of the rail rolling equipment located between two trucks. This term does not include a private car. See 49 CFR 238.5.

*Passenger train* means a train that transports or is available to transport members of the general public. See 49 CFR 238.5.

*Private car* means rail rolling equipment that is used only for excursion, recreational, or private transportation purposes. A private car is not a passenger car. See 49 CFR 238.5.

*Rail facility* means a location at which rail cargo or infrastructure assets are stored, cargo is transferred between conveyances and/or modes of transportation, where transportation command and control operations are performed, or maintenance operations are performed. The term also includes, but is not limited to, passenger stations and terminals, rail yards, crew management centers, dispatching centers, transportation terminals and stations, fueling centers, and telecommunication centers.

*Rail hazardous materials receiver* means any operator of a fixed-site facility that has a physical connection to the general railroad system of transportation and receives or unloads from transportation in commerce by rail one

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or more of the categories and quantities of rail security-sensitive materials set forth in §1580.100(b) of this part, but does not include the operator of a facility owned or operated by a department, agency, or instrumentality of the Federal government.

*Rail hazardous materials shipper* means the operator of any fixed-site facility that has a physical connection to the general railroad system of transportation and offers, prepares, or loads for transportation by rail one or more of the categories and quantities of rail security-sensitive materials set forth in §1580.100(b) of this part, but does not include the operator of a facility owned or operated by a department, agency, or instrumentality of the Federal government.

*Rail secure area* means a secure location(s) identified by a rail hazardous materials shipper or rail hazardous materials receiver where security-related pre-transportation or transportation functions are performed or rail cars containing the categories and quantities of rail security-sensitive materials are prepared, loaded, stored, and/or unloaded.

*Rail security-sensitive material* means one or more of the categories and quantities of hazardous materials set forth in §1580.100(b) of this part.

*Rail transit facility* means rail transit stations, terminals, and locations at which rail transit infrastructure assets are stored, command and control operations are performed, or maintenance is performed. The term also includes rail yards, crew management centers, dispatching centers, transportation terminals and stations, fueling centers, and telecommunication centers.

*Rail transit system or "Rail Fixed Guideway System"* means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, cable car, trolley, or automated guideway that traditionally does not operate on track that is part of the general railroad system of transportation.

*Railroad* means any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including: Commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was op-

erated by the Consolidated Rail Corporation on January 1, 1979; and high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation. The term includes rail transit service operating on track that is part of the general railroad system of transportation but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation. *See* 49 U.S.C. 20102(1).

*Railroad carrier* means a person providing railroad transportation. *See* 49 U.S.C. 20102(2).

*Residue* means the hazardous material remaining in a packaging, including a tank car, after its contents have been unloaded to the maximum extent practicable and before the packaging is either refilled or cleaned of hazardous material and purged to remove any hazardous vapors. *See* 49 CFR 171.8.

*Tourist, scenic, historic, or excursion operation* means a railroad operation that carries passengers, often using antiquated equipment, with the conveyance of the passengers to a particular destination not being the principal purpose. Train movements of new passenger equipment for demonstration purposes are not tourist, scenic, historic, or excursion operations. *See* 49 CFR 238.5.

*Transit* means mass transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation. *See* 49 U.S.C 5302(a). Transit may occur on or off the general railroad system of transportation. For purposes of this part, the term "transit" excludes buses and commuter passenger train service.

*Transportation or transport* means the movement of property including loading, unloading, and storage. Transportation or transport also includes the movement of people, boarding, and disembarking incident to that movement.