

§ 172.802

49 CFR Ch. I (10–1–20 Edition)

placarding in accordance with subpart F of this part;

(8) A large bulk quantity of a Division 4.2 material meeting the criteria for Packing Group I or II;

(9) A quantity of a Division 4.3 material requiring placarding in accordance with subpart F of this part;

(10) A large bulk quantity of a Division 5.1 material in Packing Groups I and II; perchlorates; or ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions, suspensions, or gels;

(11) Any quantity of organic peroxide, Type B, liquid or solid, temperature controlled;

(12) A large bulk quantity of Division 6.1 material (for a material poisonous by inhalation see paragraph (5) above);

(13) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73 or the United States Department of Agriculture under 9 CFR part 121;

(14) A quantity of uranium hexafluoride requiring placarding under § 172.505(b);

(15) International Atomic Energy Agency Code of Conduct (IBR, see § 171.7) Category 1 and 2 materials, Nuclear Regulatory Commission, Category 1 and Category 2 radioactive materials as listed in Table 1, appendix A to 10 CFR part 37, and Highway Route Controlled quantities as defined in 49 CFR 173.403.

(16) A large bulk quantity of Class 8 material meeting the criteria for Packing Group I.

(c) *Exceptions.* Transportation activities of a farmer, who generates less than \$500,000 annually in gross receipts from the sale of agricultural commodities or products, are not subject to this subpart if such activities are:

(1) Conducted by highway or rail;

(2) In direct support of their farming operations; and

(3) Conducted within a 150-mile radius of those operations.

[68 FR 14521, Mar. 25, 2003, as amended at 70 FR 73164, Dec. 9, 2005; 71 FR 32258, June 2, 2006; 75 FR 10988, Mar. 9, 2010; 75 FR 53597, Sept. 1, 2010; 76 FR 56314, Sept. 13, 2011; 85 FR 27878, May 11, 2020]

§ 172.802 Components of a security plan.

(a) The security plan must include an assessment of transportation security risks for shipments of the hazardous materials listed in § 172.800, including site-specific or location-specific risks associated with facilities at which the hazardous materials listed in § 172.800 are prepared for transportation, stored, or unloaded incidental to movement, and appropriate measures to address the assessed risks. Specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. At a minimum, a security plan must include the following elements:

(1) *Personnel security.* Measures to confirm information provided by job applicants hired for positions that involve access to and handling of the hazardous materials covered by the security plan. Such confirmation system must be consistent with applicable Federal and State laws and requirements concerning employment practices and individual privacy.

(2) *Unauthorized access.* Measures to address the assessed risk that unauthorized persons may gain access to the hazardous materials covered by the security plan or transport conveyances being prepared for transportation of the hazardous materials covered by the security plan.

(3) *En route security.* Measures to address the assessed security risks of shipments of hazardous materials covered by the security plan en route from origin to destination, including shipments stored incidental to movement.

(b) The security plan must also include the following:

(1) Identification by job title of the senior management official responsible for overall development and implementation of the security plan;

(2) Security duties for each position or department that is responsible for implementing the plan or a portion of the plan and the process of notifying employees when specific elements of the security plan must be implemented; and

(3) A plan for training hazmat employees in accordance with § 172.704 (a)(4) and (a)(5) of this part.

(c) The security plan, including the transportation security risk assessment developed in accordance with paragraph (a) of this section, must be in writing and must be retained for as long as it remains in effect. The security plan must be reviewed at least annually and revised and/or updated as necessary to reflect changing circumstances. The most recent version of the security plan, or portions thereof, must be available to the employees who are responsible for implementing it, consistent with personnel security clearance or background investigation restrictions and a demonstrated need to know. When the security plan is updated or revised, all employees responsible for implementing it must be notified and all copies of the plan must be maintained as of the date of the most recent revision.

(d) Each person required to develop and implement a security plan in accordance with this subpart must maintain a copy of the security plan (or an electronic file thereof) that is accessible at, or through, its principal place of business and must make the security plan available upon request, at a reasonable time and location, to an authorized official of the Department of Transportation or the Department of Homeland Security.

[68 FR 14521, Mar. 25, 2003, as amended at 75 FR 10989, Mar. 9, 2010]

§ 172.804 Relationship to other Federal requirements.

To avoid unnecessary duplication of security requirements, security plans that conform to regulations, standards, protocols, or guidelines issued by other Federal agencies, international organizations, or industry organizations may be used to satisfy the requirements in this subpart, provided such security plans address the requirements specified in this subpart.

§ 172.820 Additional planning requirements for transportation by rail.

(a) *General.* Each rail carrier transporting in commerce one or more of the following materials is subject to the additional safety and security planning requirements of this section:

(1) More than 2,268 kg (5,000 lbs.) in a single carload of a Division 1.1, 1.2 or 1.3 explosive;

(2) A quantity of a material poisonous by inhalation in a single bulk packaging;

(3) A highway route-controlled quantity of a Class 7 (radioactive) material, as defined in §173.403 of this subchapter;

(4) A high-hazard flammable train (HHFT) as defined in §171.8 of this subchapter; or

(5) A quantity of UN1972 (Methane, refrigerated liquid or Natural gas, refrigerated liquid) when transported in a rail tank car.

(b) Not later than 90 days after the end of each calendar year, a rail carrier must compile commodity data for the previous calendar year for the materials listed in paragraph (a) of this section. The following stipulations apply to data collected:

(1) Commodity data must be collected by route, a line segment or series of line segments as aggregated by the rail carrier. Within the rail carrier selected route, the commodity data must identify the geographic location of the route and the total number of shipments by UN identification number for the materials specified in paragraph (a) of this section.

(i) A rail carrier subject to additional planning requirements of this section based on paragraph (a)(5) of this section that has yet to transport UN 1972, must factor in planned shipments of UN 1972 to the commodity data for use in the paragraph (c) route analysis prior to initial transport of the material.

(ii) [Reserved]

(2) A carrier may compile commodity data, by UN number, for all Class 7 materials transported (instead of only highway route controlled quantities of Class 7 materials) and for all Division 6.1 materials transported (instead of only Division 6.1 poison inhalation hazard materials).

(c) *Rail transportation route analysis.* For each calendar year, a rail carrier must analyze the safety and security risks for the transportation route(s), identified in the commodity data collected as required by paragraph (b) of this section. The route analysis must