

§ 172.800

49 CFR Ch. I (10–1–12 Edition)

(5) Certification that the hazmat employee has been trained and tested, as required by this subpart.

(e) *Limitations.* The following limitations apply:

(1) A hazmat employee who repairs, modifies, reconditions, or tests packagings, as qualified for use in the transportation of hazardous materials, and who does not perform any other function subject to the requirements of this subchapter, is not subject to the training requirement of paragraph (a)(3) of this section.

(2) A railroad maintenance-of-way employee or railroad signalman, who does not perform any function subject to the requirements of this subchapter, is not subject to the training requirements of paragraphs (a)(2), (a)(4), or (a)(5) of this section. Initial training for a railroad maintenance-of-way employee or railroad signalman in accordance with this section must be completed by October 1, 2006.

[Amdt. 172–126, 57 FR 20952, May 15, 1992, as amended by Amdt. 172–126, 58 FR 5851, Jan. 22, 1993; Amdt. 172–145, 60 FR 49110, Sept. 21, 1995; Amdt. 172–149, 61 FR 27173, May 30, 1996; 65 FR 50460, Aug. 18, 2000; 68 FR 14521, Mar. 25, 2003; 70 FR 73164, Dec. 9, 2005; 73 FR 4716, Jan. 28, 2008; 73 FR 57005, Oct. 1, 2008; 75 FR 10988, Mar. 9, 2010; 76 FR 56314, Sept. 13, 2011]

Subpart I—Safety and Security Plans

SOURCE: 68 FR 14521, Mar. 25, 2003, unless otherwise noted.

§ 172.800 Purpose and applicability.

(a) *Purpose.* This subpart prescribes requirements for development and implementation of plans to address security risks related to the transportation of hazardous materials in commerce.

(b) *Applicability.* Each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a transportation security plan for hazardous materials that conforms to the requirements of this subpart. As used in this section, “large bulk quantity” refers to a quantity greater than 3,000 kg (6,614 pounds) for solids or 3,000 liters (792 gallons) for liquids and gases in a single packaging such as a cargo tank

motor vehicle, portable tank, tank car, or other bulk container.

(1) Any quantity of a Division 1.1, 1.2, or 1.3 material;

(2) A quantity of a Division 1.4, 1.5, or 1.6 material requiring placarding in accordance with subpart F of this part;

(3) A large bulk quantity of Division 2.1 material;

(4) A large bulk quantity of Division 2.2 material with a subsidiary hazard of 5.1;

(5) Any quantity of a material poisonous by inhalation, as defined in § 171.8 of this subchapter;

(6) A large bulk quantity of a Class 3 material meeting the criteria for Packing Group I or II;

(7) A quantity of desensitized explosives meeting the definition of Division 4.1 or Class 3 material requiring 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 (IAEA) Code of Conduct Category 1 and 2 materials including Highway Route Controlled quantities as defined in 49 CFR 173.403 or known radionuclides in forms listed as RAM–QC by the Nuclear Regulatory Commission;

(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]

§ 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