

Review of Rail Security Rule



Transportation
Security
Administration

Freight Rail Security Rule

**The Final Rule was published in the Federal Register on
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**Copies of the Federal Register can be obtained at:
<http://www.gpoaccess.gov/fr/index.html>**

The citation is FR Volume 73, No. 229, 72130

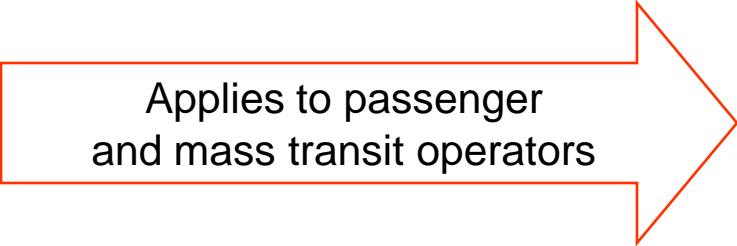
The rule is also available on the electronic code of federal regulations web site at
<http://ecfr.gpoaccess.gov/>

Major Provisions

- 49 CFR Part 1520
 - 1520 Protection of Sensitive Security Information
 - Adds definitions for rail centric terminology to the SSI rules
- Part 1580 – Rail Transportation Security
 - **Subpart A - Scope, Definitions, Authority**
 - 1580.5: Inspection Authority
 - **Subpart B - Freight Rail Provisions**
 - 1580.100: Applicability
 - 1580.101: Requires Rail Security Coordinator
 - 1580.103: Location and Shipping Information
 - 1580.105: Reporting Significant Security Concerns
 - 1580.107: Chain of Custody and Control
 - 1580.109: Preemptive Effect
 - **Subpart C -Passenger Rail Provisions**
 - 1580.201: Rail Security Coordinator
 - 1580.203: Reporting Significant Security Concerns



**Applies to rail carriers,
hazmat shippers,
and hazmat receivers***



Applies to passenger
and mass transit operators

DETAILS

1580.5: Inspection Authority

- Applies to freight and passenger railroad carriers; shippers; receivers (in HTUA only); tourist, scenic, historic, and excursion rail operators; operators of private cars; and operators of rail transit systems not operating on tracks that are part of the general railroad system of transportation
- Without advance notice, TSA and authorized DHS officials must be allowed to:
 - Enter, inspect, and test property, facilities, equipment, and operations
 - View, inspect, and copy records as necessary to carry out TSA's security-related statutory or regulatory authorities
- In order to fulfill TSA directed duties, TSA and DHS officials working with TSA may be present within any area or conveyance without access or identification media issued or approved by the inspected entity
- **If requested, TSA inspectors and DHS officials working with TSA will present their credentials for examinations, but they may not be photocopied, or otherwise reproduced**

Who and What is Covered

- **Part 1580 – Rail Transportation Security**
 - 1580.100: Applicability
 - Freight railroad carriers
 - Rail hazardous materials shippers
 - Rail hazardous materials receivers (in HTUA only)
 - Freight rail carriers hosting a passenger operation
 - Operators of private cars, including business cars and circus trains
 - **Rail security-sensitive materials (RSSM)**
 - A rail car containing more than 5,000 lbs. of a Division 1.1, 1.2, or 1.3 Explosive material
 - A tank car containing a material poisonous by inhalation
 - A rail car containing a highway route-controlled quantity of Class 7 (radioactive) material

1580.101: Rail Security Coordinator

Applies to all listed in 1580.100

(carriers, shippers, HTUA receivers)

- Must designate a primary and at least one alternate RSC
- Must provide to TSA: names, titles, phone numbers and email address of RSC designees
- For hazmat carriers, shippers, and receivers must ensure at least one RSC who:
 - Serves as primary contact for intelligence and security related activities
 - Available to TSA 24/7
 - Coordinates security practices with appropriate law enforcement and emergency response agencies

Further information on how to submit RSC information is posted on the TSA website (www.TSA.gov)

1580.103: Location and Shipping Information

- Applies to:
 - Carriers transporting one or more RSSM
 - Rail hazardous materials shippers
 - Rail hazardous materials receivers in an HTUA
- Must have procedures in place to determine the location for each car under its *physical custody* that contains RSSM
- Must provide the following information:
 - **Rail car current location** by city, county, and state; include railroad milepost, track designation, and the time that location was determined
 - **Rail car routing**
 - **List of all cars containing RSSM**
 - Proper shipping name
 - Hazard class and 4 digit ID number
 - Car initial and number
 - Status of car (in yard, on main, etc.)
 - Class 1 carriers must report the location for a single car within 5 minutes and within 30 minutes for two or more cars
 - Other carriers must report the location and shipping information within 30 minutes
- **Must provide a telephone number to TSA to use for requesting location information**
 - Cannot be an answering service or answering machine

TSA will make the request. Covered parties do not necessarily have to generate reports unless requested to do so.

1580.105: Reporting Significant Security Concerns

- Applies to carriers, shippers & receivers
- Must immediately notify TSA by calling the Freedom Center (TSOC)
- Potential threats or significant security concerns, examples include:
 - Interference with train crew
 - Bomb threats
 - Reports or discovery of suspicious items that result in disruption of operations
 - Suspicious activity occurring onboard a train or inside a facility
 - Suspicious activity observed at or around rail cars, facilities, or infrastructure
 - Discharge, discovery, or seizure of a firearm or other deadly weapon
 - Indications of tampering with rail cars
 - Information relating to the possible surveillance of rail cars or facilities
 - Correspondence received that indicates a potential threat
- Must supply name, contact numbers, and descriptions of events

TSOC: 1-866-615-5150

1580.107: Chain of Custody and Control

Seven conditions that apply to chain of custody

1. **Shipper to carrier** (both inside and outside HTUA)
 - Must physically inspect car before loading
 - Keep rail car in a *rail secure area* after being inspected until carrier takes physical custody of car
 - Document transfer of custody
2. **Carrier receiving from Shipper**
(both inside and outside HTUA)
 - Carrier must perform security focused inspection
 - Per 49 CFR 174.9
 - Document transfer of custody
3. **Carrier to Carrier** (inside HTUA)
 - Must ensure that car is not left unattended “at any time during physical transfer of custody”
 - Receiving carrier must perform required security inspection
 - Per 49 CFR 174.9
 - Document transfer of custody

1580.107: Chain of Custody and Control

4. **Carrier to Carrier** (outside HTUA)

- If car is going to go through an HTUA...
 - Must insure that car is not left unattended “at any time during physical transfer of custody”
 - Receiving carrier must perform required security inspection
 - Document transfer of custody

5. **Carrier to receiver** (inside HTUA)

- Must not leave the RSSM rail car unattended in a non-secure area until the receiver accepts custody of the car
- Document the transfer of custody

6. **Receiver** (inside HTUA)

- Ensure that receiver or carrier maintains positive control of the car during physical transfer
- Keep the car in a rail secure area until the car is unloaded
- Document the transfer of custody

1580.107: Chain of Custody and Control

7. *Receiver rejecting car*

(inside and outside of HTUA)

- Provisions of chain of custody and control do not apply to those receivers that do not regularly offer, prepare, or load RSSM and who “reject” a car
- The chain of custody provisions do apply to the rail carrier who gets the rejected car from the receiver
- Exemptions for receivers
 - A receiver located in an HTUA may request an exemption from TSA if the receiver believes that there is insufficient risk to warrant “chain of custody”
 - 1580.107(j) lists the information that must be presented in the exemption appeal

Important Terms in 1580.107

- **Attended**

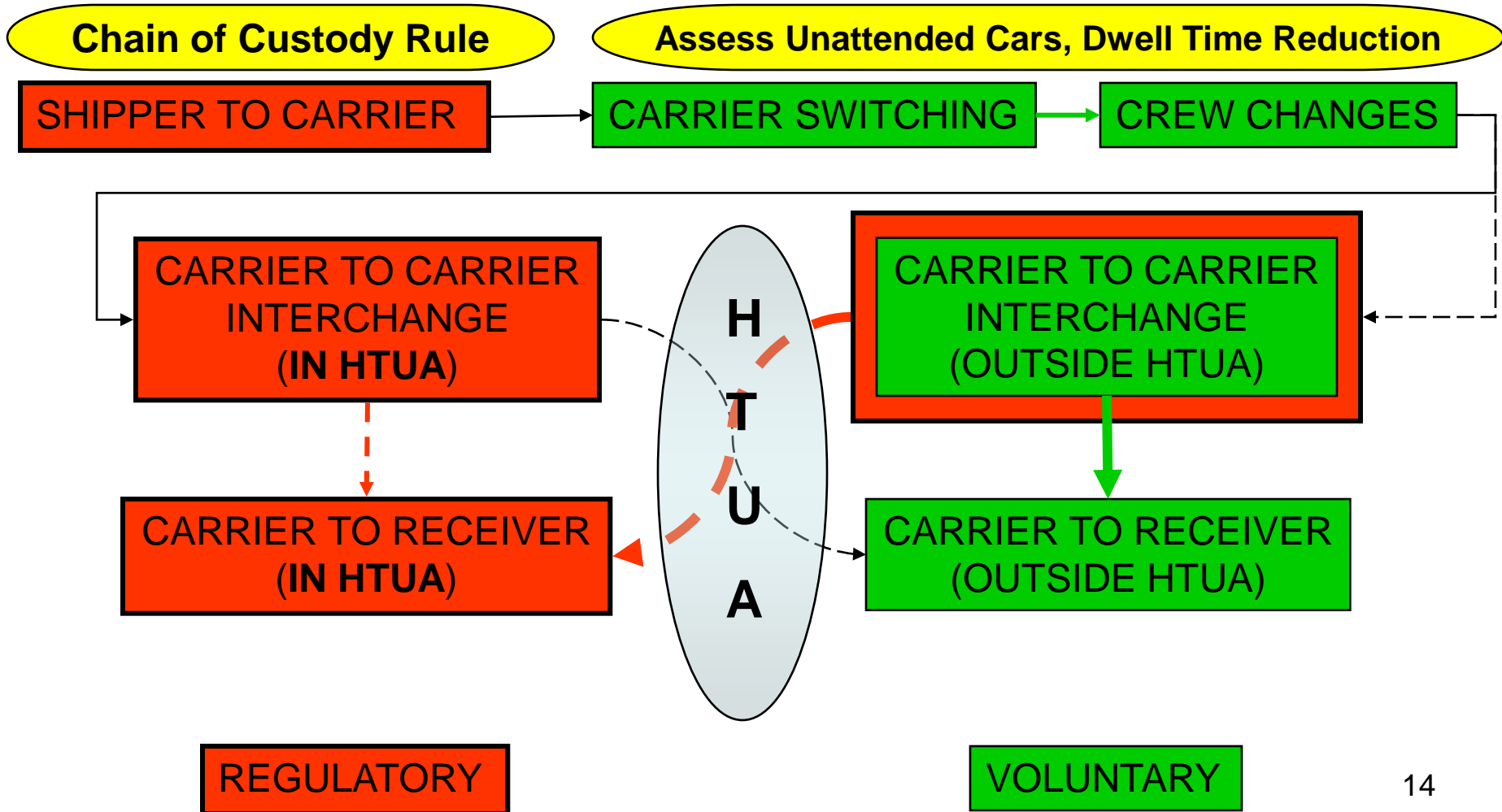
- A car is attended if an employee or authorized representative is:

- Physically located on site in reasonable proximity to the rail car
 - Capable of responding to unauthorized access or activity at or near the rail car, including immediately contacting law enforcement or other authorities
 - *And...*the employee immediately responds to any unauthorized access or activity at or near the rail car either personally or by contacting law enforcement or other authorities

This definition is different from the one used in the TIH Risk Reduction surveys.

- **Positive Control** (maintains)
 - A hazardous materials receiver and rail carrier communicate and cooperate with each other to provide for the security of the rail car during the physical transfer of custody.
 - Attending the rail car is part of positive control
- **Rail Secure Area**
 - The shipper and the receiver must use physical security measures to ensure no unauthorized person gains access to the rail secure area
 - *This is also defined in the definitions section of the rule* as 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 on rail cars containing the categories and quantities of rail security-sensitive materials (as defined) are prepared, loaded, stored, and/or unloaded.

Reduce the risk associated with the transportation of RSSM through High Threat Urban Areas



Other Provisions

- 1580.109: Preemptive Effect
 - This section preempts state, local, and tribal laws or regulations covering the same subject matter
- Subpart C (1580.200)
 - Contains provisions for passenger rail operators requiring a rail security coordinator and reports of significant security concerns

QUESTIONS?

- Written questions about the regulation can be sent to: freightrailsecurity@dhs.gov.



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