STATEMENT OF

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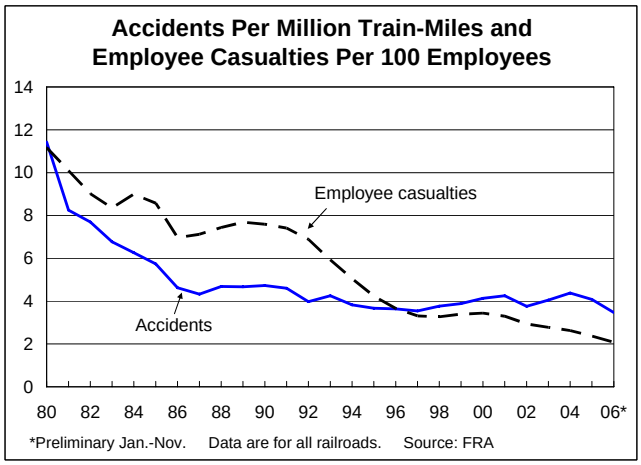
On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to discuss security from a freight railroad perspective. Members of the AAR account for the vast majority of railroad mileage, employees, and revenue in Canada, Mexico, and the United States.



Unlike U.S. passenger railroads and transit systems, U.S. freight railroads are, with minor exceptions, privately owned and operated, and they rely almost exclusively on their own earnings to fund their operations. Freight railroads are critical to our economic health and global competitiveness. They move approximately 40 percent of our nation's freight (measured in ton-miles) — everything from lumber to vegetables, coal to orange juice, grain to automobiles, and chemicals to scrap iron — and connect businesses with each other across the country and with markets overseas.

From 1980 through 2006, Class I[1] railroads spent more than $370 billion — more than 40 cents out of every revenue dollar — on capital expenditures and maintenance expenses related to infrastructure and equipment. Non-Class I carriers had billions of dollars of additional spending. These massive, privately-funded expenditures help ensure that railroads can meet our current and future freight transportation demands safely and cost effectively.

As the Federal Railroad Administration (FRA) noted in testimony to this committee last week, "The railroads have an outstanding record in moving all goods safely." Indeed, nothing is more important for railroads than the safety and security of their operations. For railroads, safety and security are interconnected: a safer workplace will tend to be a more secure workplace, and a more secure workplace will tend to be a safer workplace. And railroads have become much safer. According to FRA data, railroads reduced their overall train accident rate by 64 percent from 1980-2005, and their rate of employee casualties by 79 percent. Railroads have lower employee injury rates than other modes of transportation and most other major industry groups, including agriculture, construction, manufacturing, and private industry as a whole.

We should also be encouraged by the continuing improvements in rail safety. Based on preliminary data for the first 11 months, 2006 was the safest year ever for railroads by the three most commonly-cited rail safety measures: the train accident rate, the employee casualty rate, and the grade crossing collision rate all reached record lows.

Freight railroads are justifiably proud of these accomplishments. At the same time, though, railroads want rail safety and security to continue to improve, and they are always willing to work cooperatively with members of this committee, others in Congress, the Department of Homeland Security (DHS), the FRA, rail employees, and others to find practical, effective ways to make this happen.

[1] U.S. freight railroads are classified on the basis of revenue. The seven Class I railroads each had revenue of at least $319 million in 2005. Class I carriers comprise 1 percent of freight railroads, but account for 70 percent of the industry's mileage operated, 89 percent of its employees, and 93 percent of its freight revenue.

Below I will discuss the many ways that U.S. freight railroads have addressed security in the post 9-11 era and how security efforts (including hazmat security) can be improved.

The Aftermath of September 11

Almost immediately after the 9/11 attacks, the AAR Board of Directors established a Railroad Security Task Force. The overarching goals of this task force were to 1) help ensure the safety of rail employees and the communities in which railroads operate; 2) protect the viability of national and regional economic activity; and 3) make certain that railroads can continue to play their vital role in support of our military.

Over the next several months, the task force conducted a comprehensive risk analysis of the freight rail industry. Using CIA and national intelligence community "best practices," five critical action teams (consisting of more than 150 experienced railroad, customer, and intelligence personnel) examined and prioritized railroad assets, vulnerabilities, and threats. Critical action teams covered information technology and communications; physical infrastructure; operational security; hazardous materials; and military traffic needs. Freight railroads also cooperated fully with a separate team covering passenger rail security.

The Railroad Terrorism Risk Analysis and Security Management Plan

The end result of these analyses was the creation of the industry's Terrorism Risk Analysis and Security Management Plan, a comprehensive, intelligence-driven, priority-based blueprint of actions designed to enhance freight rail security. The plan was adopted by the AAR in December 2001 and remains in effect today.

As a result of the plan, freight railroads quickly enacted more than 50 permanent security-enhancing countermeasures. For example, access to key rail facilities and information has been restricted, and cyber-security procedures and techniques have been strengthened. In addition, the plan defines four progressively higher security alert levels and details a series of actions to be taken at each level:

Alert Level 1 is "New Normal Day-to-Day Operations" and exists when a general threat of possible terrorist activity exists, but warrants only a routine security posture. Actions in effect at this level include conducting security training and awareness activities; restricting certain information to a need-to-know basis; restricting the ability of unauthorized persons to trace certain sensitive materials; and periodically testing that security systems are working as intended.

Alert Level 2 (the level in effect today) is "Heightened Security Awareness." It applies when there is a general non-specific threat of possible terrorist activity involving railroad personnel and facilities. Additional actions in effect at this level include security and awareness briefings as part of daily job briefings; content inspections of cars and containers for cause; and spot content inspections of motor vehicles on railroad property.

Alert Level 3 means there is "a credible threat of an attack on the United States or railroad industry." Examples of Level 3 actions include further restricting physical access and increasing security vigilance at control centers, communications hubs, and other designated facilities, and requesting National Guard security for critical assets.

Alert Level 4 applies when a confirmed threat against the rail industry exists, an attack against a railroad has occurred, an attack in the United States causing mass casualties has occurred, or other imminent actions create grave concerns about the safety of rail operations. Security actions taken at this level include stopping non-mission-essential contractor services with access to critical facilities and systems; increasing vigilance and scrutiny of railcars and

equipment during mechanical inspections to look for unusual items; and continuous guard presence at designated facilities and structures.

Alert Levels 3 and 4 can be declared industry-wide for a short period of time or, if intelligence has identified that terrorist action against a specific location or operation is imminent, for a particular geographic area (*e.g.*, the Midwest) or subset of rail traffic (*e.g.*, hazardous materials).

Railroads test their security plan through table-top exercises twice yearly, and evaluate and modify it as needed to ensure maximum continued effectiveness.

Access to pertinent intelligence information is a critical element of the plan. To this end, the rail industry is in constant communication with the Transportation Security Administration (TSA) and elsewhere within DHS, the Department of Defense (DOD), the Department of Transportation (DOT), the FBI's National Joint Terrorism Task Force (NJTTF), state and local law enforcement, and others. A railroad police officer and railroad analysts who hold Top Secret clearances work with government intelligence analysts at NJTTF and at DHS to help evaluate intelligence and serve as subject matter experts.

Intelligence information, in turn, is disseminated through the Railway Alert Network (RAN), a secure 24/7 communications network operated by the AAR at the Secret level that links federal security personnel with railroad operations centers. Through the RAN, railroads and the intelligence community share information to maintain situational awareness and immediately institute appropriate alert levels.

Communication is also enhanced by the Surface Transportation Information Sharing and Analysis Center (ST-ISAC), which was established by the AAR at the request of the DOT. The ST-ISAC collects, analyzes, and distributes security information from worldwide resources to help protect vital information technology systems and physical assets from attack. It operates 24/7 at the Top Secret level. The ST-ISAC grew out of Presidential Decision Directive 63 (May 22, 1998), which recognizes freight railroads as "essential to the minimum operations of the economy and government."

Rail security efforts strongly benefit from the fact that major railroads have their own police forces. Security would be enhanced if police officers of one railroad were permitted to exercise law enforcement powers on the property of another railroad. This flexibility could prove especially valuable in the event of a national security threat involving an individual railroad. AAR strongly supports legislation, such as S. 184 (the "Surface Transportation and Rail Security Act of 2007") that would grant this flexibility.[2]

Notwithstanding rail industry efforts, there can be no 100 percent guarantee against terrorist assaults, including assaults involving hazardous materials (hazmat) on railroads. If such an incident occurs, railroads have well-established programs and procedures that would be invoked that are designed to respond to and minimize the impact of such incidents.

In this regard, emergency response efforts are critical. Railroads help communities develop and evaluate hazmat emergency response plans. Through their own efforts and the Transportation Community Awareness and Emergency Response Program (TRANSCAER), they provide basic training for more than 20,000 emergency responders each year.

[2] The measure was also contained in legislation (H.R. 2351) introduced in the 109th Congress sponsored by Rep. James Oberstar, chairman of the House Transportation and Infrastructure Committee.

In addition, more than 20 years ago, the AAR established the Emergency Response Training Center (ERTC), a world-class training facility that is part of the Transportation Technology Center, Inc. (TTCI) in Pueblo, Colorado. The ERTC has provided in-depth hazmat emergency response training to more than 38,000 emergency responders and railroad and chemical industry professionals from all over the country and abroad. Most recently, the ERTC agreed to provide critical training for 100 new rail security inspectors hired by the TSA. This summer, ERTC will be training NJTTF personnel.

The ERTC is considered by many to be the "graduate school" of hazmat training because of its focus on comprehensive, hands-on training using actual rail equipment. TTCI boasts a collection of around 70 rail freight cars (including tank cars), some 15 rail passenger cars, 25 highway cargo tanks, van trailers, and intermodal containers, as well as computer work stations equipped with the latest emergency response software. TTCI is currently developing a Passenger Railcar Security and Integrity Training Facility to test the effectiveness of various response and remediation techniques in mitigating incidents involving passenger trains. This facility focuses on chemical, biological, radiological, nuclear, or explosive incidents and other activities associated with potential terrorist events.

The AAR strongly supports legislation soon to be introduced by Rep. John Salazar that would make TTCI a member of the National Domestic Preparedness Consortium (NDPC), which is a group of premier institutions that develop, test, and deliver training to state and local emergency responders. Today, a facility specifically targeted at emergency response training for freight and passenger railroad environments is notably absent from the NDPC. Including TTCI in the NDPC offers a unique opportunity to improve our nation's ability to prevent, minimize, and respond to potential rail-related terrorist attacks similar to those witnessed in London and Madrid.

The rail industry is pleased that many members of Congress have had the opportunity to visit TTCI in person. I extend an open invitation to all members of this committee to visit the facility where they can gain first-hand knowledge of its capabilities.

Hazardous Materials Movements by Rail

Each year, 1.7 to 1.8 million carloads of hazardous materials are transported by rail in the United States, with two-thirds moving in tank cars. "Toxic inhalation hazards" (TIH) — gases or liquids, such as chlorine and anhydrous ammonia, that are especially hazardous if released — are a subset of hazardous materials and are a major (though not exclusive) focus of hazmat-related rail safety efforts. In each of the past couple of years, railroads have transported just over 100,000 carloads of TIH, virtually all in tank cars.

Railroads recognize and deeply regret the occurrence of a few tragic accidents involving hazardous materials over the past couple of years. Nevertheless, the rail hazmat safety record is extremely favorable. In 2005, 99.997 percent of rail hazmat shipments reached their final destination without a release caused by an accident. Railroads reduced hazmat accident rates by 86 percent from 1980 through 2005.

Still, no one disputes that efforts should be made to increase hazmat safety and security where practical. Railroads understand this better than anyone. Today, the federal government, through the railroads' common carrier obligation, requires railroads to transport highly-hazardous materials, whether railroads want to or not. Unlike firms in other industries, including other transportation companies, railroads today have not been able to "just say no" to entering into a business relationship with consumers or manufacturers of these materials.

Absent railroads' common carrier requirement, many railroads would not transport these materials because of the potentially ruinous claims that could arise in the event of a catastrophic accident involving a release of these materials. Indeed, while accidents involving highly-hazardous materials on railroads are exceedingly rare, history demonstrates that railroads can suffer multi-billion dollar judgments, even for accidents where no one gets hurt and the railroads do nothing wrong. Drunk drivers, impatient motorists driving around a grade crossing gate or ignoring a signal at a grade crossing, faulty repairs by the owner of a tank car, and pranksters — not terrorists — have caused incidents that could have been disastrous if they had involved the release of these materials.

A few years ago in New Orleans, a tank car that railroads did not own containing more than 30,000 gallons of liquid butadiene began to leak. Vapor from the butadiene tank car rolled out across a neighborhood until the pilot light of an outdoor gas water heater ignited it. More than 900 people were evacuated. The National Transportation Safety Board found that the probable cause of the accident was an improper gasket that a chemical company had installed on the tank car. Nevertheless, a state court jury entered a punitive damages verdict against the railroads involved in the amount of $2.8 billion.

In essence, the transport of highly-hazardous materials is a "bet the business" public service that the government makes railroads perform.

Railroads face these huge risks for a tiny fraction of their business. In 2005, railroads moved just over 100,000 TIH carloads and nearly 37 million total carloads. Thus, shipments of TIH constituted only about 0.3 percent of all rail carloads. The revenue that highly-hazardous materials generate does not come close to covering the potential liability to railroads associated with this traffic. Moreover, the insurance industry is unwilling to fully insure railroads against the multi-billion dollar risks associated with highly-hazardous shipments. And even though TIH accounts for a tiny fraction of rail carloads, it contributes approximately 50 percent of the rapidly-rising overall cost of railroad insurance.

For all these reasons, the current environment for the rail transportation of highly-hazardous materials, especially TIH, is untenable. If the federal government is going to require railroads to transport highly-hazardous materials, it must address the "bet the company" risk it forces railroads to assume.

Congress can address this inequity in one of at least three ways. First, Congress could create a statutory liability cap for the railroads similar to the one that applies to Amtrak. Amtrak's total liability for all claims, including punitive damages, from a single accident — regardless of fault — is capped at $200 million. Congress could enact a similar type of cap on the liability a freight railroad would incur from an accident involving highly-hazardous materials, regardless of fault, with the government paying liabilities in excess of the cap.

Congress could also enact a Price-Anderson type solution. Price-Anderson limits the liability of a company from an incident involving the release of nuclear material, including in transportation, and provides for a fund to which all owners of nuclear power plants contribute when an incident occurs to cover any damages in excess of that limit. Under a similar proposal for TIH, the railroad would be liable for some defined amount of damages arising from a railroad accident involving a highly-hazardous material. Any damages above that defined amount would be paid from a fund to which producers and end-users of these materials would contribute in the event of an incident.

The main purpose of such legislation would be to cap the railroad's liability for claims, while still ensuring compensation for the general public. However, it also seeks to

balance the societal need to compensate the injured and damaged with the need for any railroad involved to be able to continue to operate and remain viable.

Both of these proposals leave railroads with a substantial amount of liability. Both are also reasonable, given railroads' federally-imposed common carrier obligation and given that accidents occur even when railroads operate carefully and safely. Under either proposal, limiting freight railroads' liability from an accident involving highly-hazardous materials would reduce the railroads' risk exposure. It would also bring certainty to the insurance market, and hopefully more insurance companies would once again be willing to offer railroads coverage.

Absent these two alternatives, Congress should relieve railroads of their common carrier obligation to haul TIH and other highly-hazardous materials. If Congress will not provide some degree of protection from unlimited potential liability from transporting these materials, then it should not mandate that the railroads' shareholders assume that risk. Rather, railroads should be permitted to decide for themselves whether to accept, and at what price they are willing to accept, such materials for transportation.

What Railroads Are Doing

In the meantime, railroads support prompt, bold actions by all stakeholders to reduce the risks associated with hazmat transport. Railroads themselves are taking the lead:

- In December 2006, an industry committee approved a new standard for chlorine and anhydrous ammonia tank cars that will significantly reduce the risk of a release. (Anhydrous ammonia and chlorine combined account for around 80 percent of rail TIH movements.) The standard will be phased in beginning in 2008.[3]

- As noted earlier, railroads help communities develop and evaluate emergency response plans; provide training for more than 20,000 emergency responders each year through their own efforts and the Transportation Community Awareness and Emergency Response Program (TRANSCAER); and support Operation Respond, a nonprofit institute that develops technological tools and training for emergency response professionals.

- Railroads work closely with chemical manufacturers in the Chemical Transportation Emergency Center (Chemtrec), a 24/7 resource that coordinates and communicates critical information for use by emergency responders in mitigating hazmat incidents.

- Upon request, railroads provide local emergency response agencies with, at a minimum, a list of the top 25 hazardous materials transported through their communities. The list helps responders prioritize emergency response plans.

- For trains and routes carrying a substantial amount of highly-hazardous materials, railroads utilize special operating procedures to enhance safety.

- Railroads participate in a variety of R&D efforts to enhance tank car and hazmat safety. For example, the Tank Car Safety Research and Test Project (which is funded by railroads, tank car builders, and tank car owners) analyzes

[3] The delay in implementation is due to an FRA request.

accidents involving tank cars to help identify the causes of tank car releases and prevent future occurrences.

- In addition to implementing their Terrorism Risk Analysis and Security Management Plan, railroads are working with DHS and the DOT to identify opportunities to reduce exposure to terrorism on rail property.
- Railroads offer hazmat awareness training to all employees who are involved in hazmat transportation. Employees responsible for emergency hazmat response efforts receive far more in-depth training.
- Railroads are pursuing a variety of technological advancements to enhance rail safety, including hazmat safety.
- Railroads are working with TIH manufacturers, consumers, and the government to explore the use of coordinated routing arrangements to reduce the mileage and time in transit of TIH movements.

What Hazmat Manufacturers and Consumers Should Do

Manufacturers and consumers of hazardous materials should take a number of steps to help ensure hazmat safety.

First, concerted efforts should be made to encourage development and utilization of "inherently safer technologies," which involve the substitution of less-hazardous materials for highly-hazardous materials, especially TIH, in manufacturing and other processes. As noted in a recent report by the National Research Council (part of the National Academy of Sciences), "the most desirable solution to preventing chemical releases is to reduce or eliminate the hazard where possible, not to control it." Ways this can be achieved include "modifying processes where possible to minimize the amount of hazardous material used" and "[replacing] a hazardous substance with a less hazardous substitute."[4] In a similar vein, in a January 2006 report, the Government Accountability Office (GAO) recommended that the Department of Homeland Security "work with EPA to study the advantages and disadvantages of substituting safer chemicals and processes at some chemical facilities."[5]

One real-world example of product substitution occurred at the Blue Plains wastewater treatment facility just a few miles from the U.S. Capitol. Like many wastewater treatment facilities, Blue Plains used chlorine to disinfect water. Not long after 9/11, the facility switched to sodium hypochlorite, a safer alternative.

Railroads recognize that the use of TIH cannot be immediately halted. However, over the medium to long term, product substitution would go a long way in reducing hazmat risks.

Second, manufacturers and receivers of TIH, in conjunction with railroads and the federal government, should continue to explore the use of "coordination projects" to allow TIH consumers to source their needs from closer suppliers. For manufacturers and users, this could involve "swaps." For example, if a chlorine user contracts with a chlorine supplier

[4] *Terrorism and the Chemical Infrastructure: Protecting People and Reducing Vulnerabilities*, National Research Council – Board on Chemical Sciences and Technology, May 2006, p. 106.
[5] *Homeland Security: DHS is Taking Steps to Enhance Security at Chemical Facilities, but Additional Authority is Needed*, Government Accountability Office, January 2006, p. 7.

located 600 miles away, but another supplier is located 300 miles away, the supplier located 600 miles away might agree to allow the closer shipper to supply the user.

Third, hazmat consumers and manufacturers should support efforts aimed at increasing tank car safety and reliability. Recently, for example, the FRA, Dow Chemical, Union Pacific, and the Union Tank Car Company announced a collaborative partnership to design and implement a next-generation railroad tank car. (TTCI has been selected to support testing and developments initiatives related to this project.)

What the Government Should Do

The government too has a key role to play. First, as noted earlier, if the government requires railroads to transport highly-hazardous materials (via their common carrier obligation), it must address the "bet the company" risk this obligation forces railroads to assume.

Second, the government should help facilitate the "coordinated routing arrangements" and "coordination projects" mentioned earlier.

Third, the government should encourage the rapid development and use of "inherently safer technologies" to replace TIH and other highly-hazardous materials.

Fourth, the government should reject proposals that would allow state or local authorities to ban hazmat movements through their jurisdictions or order railroads to provide local authorities advance notification of hazmat movements through their jurisdictions.

The purposes of these types of proposals are protection of the local populace against hazmat incidents, including terrorist attack (especially in perceived "high threat" areas), and enhancing the ability to react more quickly to hazmat incidents. The proposals may be well intended, but the end result of their enactment on a locality-by-locality basis would likely be an *increase* in exposure to hazmat release and *reduced* safety and security.

Banning hazmat movements in individual jurisdictions would not eliminate risks, but instead would shift them from one place to another and from one population to another. In shifting that risk, it could foreclose transportation routes that are optimal in terms of overall safety, security, and efficiency and force railroads to use less direct, less safe routes.

The rail network is not similar to the highway network where there are myriad alternate routes. In the rail industry, rerouting could add hundreds of miles and several days to a hazmat shipment, and those extra miles and days could be on rail infrastructure that is less suitable (for a variety of reasons) to handling hazmat. Additional switching and handling of cars carrying hazmat could be needed, as could additional dwell time in yards. As the Department of Justice and DHS noted in a joint brief opposing a proposed D.C. hazmat ban, the increase in the total miles over which hazmat travels and the increase in total time in transit would "increase their exposure to possible terrorist action," and therefore potentially *reduce* safety and security.[6] The U.S. DOT also submitted a statement recognizing that banning hazmat shipments through certain areas reduces both safety and security.

If hazmat were banned in one jurisdiction, other jurisdictions would undoubtedly follow suit. In fact, that is already happening. In the wake of so far unsuccessful attempts by the D.C. City Council to ban hazmat movements through Washington, similar efforts are being discussed for Atlanta, Baltimore, Boston, Cleveland, Chicago, Las Vegas, Memphis, Philadelphia, Pittsburgh, and probably other cities too, as well as for all of California.

An integrated, effective national network requires uniform standards that apply nationwide. The clarity and efficiency that uniformity brings would be lost if different localities and routes were subject to widely different rules and standards, or if local and/or state governments could dictate what types of freight could pass through their jurisdictions. The problem is especially acute for railroads, whose network characteristics and limited routing options mean that disruptions in one area can have profound impacts thousands of miles away. These disruptions would negatively affect all rail traffic, not just hazmat traffic.

[6] It has been estimated, for example, that a ban on hazmat transport through the District of Columbia would result in some 2 million additional hazmat car-miles as carriers had to use circuitous alternative routes.

Thus, if policymakers determine that hazmat movements should be banned, they should be banned nationwide, rather than on a locality-by-locality basis.

Hazmat pre-notification to local authorities is problematic for several reasons and may not accomplish the goals of those seeking it.

First, upon request the rail industry already notifies communities of, at a minimum, the top 25 hazardous commodities likely to be transported through their area. In the event of a hazmat incident, train consists are available to emergency responders, and railroads, at TSA request, have agreed to provide movement data on all TIH cars.

Second, pre-notification would vastly increase the accessibility of hazmat location information. Making this information more accessible could increase vulnerability to terrorist attack by magnifying the possibility that the information could fall into the wrong hands.

Third, at any one time, thousands of hazmat carloads are moving by rail throughout the country, constantly leaving one jurisdiction and entering another. The vast majority of these carloads do not — and due to the nature of rail operations, cannot be made to — follow a rigid, predetermined schedule. The sheer quantity and transitory nature of these movements would make a workable pre-notification system extremely difficult and costly to implement, for railroads and local officials alike. That is why the fire chief of Rialto, California, commented, "You'd have to have an army of people to stay current on what's coming through. I think it wouldn't be almost overwhelming. It would be overwhelming." The greater the number of persons to be notified, the greater the difficulty and cost.

Fourth, railroads provide training for hazmat emergency responders in many of the communities they serve, and they already have well-established, effective procedures in place to assist local authorities in the event of hazmat incidents.

Finally, since railroads already make communities aware of what types of hazardous materials are likely to be transported through their area and since they already provide 24/7 assistance for emergency responders (many of whom railroads have trained), it is not at all clear that information obtained by local authorities through a pre-notification system would improve their ability to respond to hazmat incidents in any meaningful way.

Rail Employee Security Training

Railroad security efforts depend a great deal on the efforts of railroads' dedicated and highly-professional employees — including engineers and conductors aboard trains; maintenance of way crews, inspectors, and signalmen working along railroad rights-of-way; railroad police officers; and others. They are the "eyes and ears" in the industry's security efforts, and we should all be grateful for their vigilance and care.

In terms of employee security training, the freight rail industry's focus has been on "see something, say something," and "keep out of harm's way." The training has encompassed topics such as what to do when an employee sees a stranger or suspicious activity on rail property; to whom an anomaly should be reported; the need to keep information about train movements and cargos confidential; and the need to keep rail property secure and safe.

With 9/11, it became clear to railroads, as it did to firms in other industries, that security awareness would have to take on new importance. In response, Class I railroads soon thereafter provided a training video and/or printed materials to all employees — in most cases mailing the materials to employees' homes — that could be characterized as "Security Awareness 101." In the materials, the railroads expressed to their employees three fundamental expectations that to this day remain cornerstones of rail employees' responsibilities

regarding security: don't put yourself in danger; report suspicious activities on or around railroad property; and don't divulge sensitive information about rail operations to others.

Over time, freight railroads began to incorporate security issues in a more formal fashion — for example, as part of employees' periodic FRA-mandated safety rules recertification, as part of new-hire training, and as part of new manager training. Many railroads have incorporated security issues into employees' manual of standard operating practices. Moreover, all railroads are compliant with U.S. DOT-mandated HM-232 security training for employees who handle hazardous materials.

More recently, railroads concluded that rail security would be enhanced if rail employee security training was more harmonized across railroads through use of a standardized curriculum, and railroads have made that harmonization a reality.

Much has been done in collaboration with the National Transit Institute (NTI) at Rutgers University. NTI was established under the Intermodal Surface Transportation Efficiency Act of 1991 to develop, promote, and deliver training and education programs for the public transit industry. Freight railroads are fortunate to have been able to take advantage of NTI's success in promoting safety and security in public transit to develop an interactive, uniform security awareness curriculum for freight railroad employees.

The standardized curriculum has four modules: *What is Security*; *Vulnerability, Risk, and Threat*; *What to Look For*; and *Employees' Role in Reducing Risk*. The goal of the standardized curriculum is to provide rail employees with an understanding of their role and responsibility in system security, and how to implement their companies' procedures upon detection of suspicious objects or activities.

For example, one module of the curriculum focuses on what system security entails in a general sense — *i.e.*, the use of operating and management policies and procedures to reduce security vulnerabilities to the lowest practical level, as well as a process focusing on preventing all levels of crime against people and property. Under a system security approach, rail employees are taught to realize that they and their duties are part of a larger, extensive system and that system security begins with the employee. To that end, employees are encouraged to be observant and to be familiar with their companies' policies and procedures in the event of a threat or incident.

Another module of the curriculum covers how to identify suspicious or dangerous activities. In the case of suspicious individuals, the focus is on behavior — specifically, where the person is, when he or she is there, and what he or she is doing. Railroads know that their employees know their daily work area better than anyone and are in the best position to determine if something looks wrong or is out of place. Thus, employee training emphasizes being familiar with the work area; observing and reporting suspicious activities and objects; reporting missing or malfunctioning equipment; and, if appropriate and endorsed by railroad policies, approaching and engaging persons to resolve or confirm suspicions. Rail employees are not to approach threatening people; try to intervene in dangerous activities; or pick up, touch, or move suspicious objects. They are expected to withdraw from dangerous environments and situations and are expected to report dangerous situations immediately.

As part of the standardized curriculum, employees are also trained how to react to threats, which may take the form of perceived suspicious activity, suspicious and/or out-of-place objects or vehicles, evidence of tampering with equipment, phone calls or other warnings, or other circumstances. Again, railroads do not expect their employees to "play the hero" by potentially putting themselves in harm's way. Instead, they are expected to follow

their company's policies and procedures, inform the appropriate authority of the situation, move to a safe location, and wait for further instructions.

We submitted our employee security training program both to DHS and to FRA for review and comment in February 2006. TSA reviewed the rail industry's training program, and advised us that it is "relevant and up-to-date" and is "helpful" in "rais[ing] the baseline of security-related knowledge."

Class I railroads will complete security training for front-line workers (security personnel, dispatchers, train operators, other on-board employees, maintenance and maintenance support personnel, and bridge tenders) by the end of this year. Going forward, rail employee security training will be documented and records of it maintained.

As the information noted above makes clear, railroads treat very seriously their obligations in regard to security and have made sustained, earnest efforts to provide their employees with the tools and training they need to react appropriately when security-related issues arise. Moreover, railroads are not standing still in this regard. Through their efforts with NTI and others, railroads are continually refining their training efforts to improve their usefulness and effectiveness. Railroads are also always open to reasonable, constructive suggestions on how employee security training can be improved.

At times, though, some rail industry critics, including some elements within rail labor, are not always constructive or reasonable. Members of this committee should be made aware that most major freight railroads are currently engaged in negotiations concerning a new national collective bargaining agreement with more than a dozen unions representing rail industry employees. During this period of negotiations, union leaders have at times engaged in self-serving tactics aimed at the bargaining table that misrepresent the industry's strong record of safety and security. A case in point is a recent Teamsters-sponsored attack on the rail industry disguised as a "study" of security gaps on U.S. railroads.

Railroad Security Legislation

A number of proposals have been offered in the Senate and House of Representatives regarding railroad security. Freight railroads are always ready and willing to discuss how security can be enhanced more effectively. To that end, railroads support provisions of rail security legislation, some of which are found in S. 184 (the "Surface Transportation and Rail Security Act of 2007") that:

- Provide funding for rail security research and deployment projects and rail security technologies.
- Require federal authorities to develop a comprehensive security plan that identifies the most important rail assets and the biggest threats to those assets. The AAR's security plan should be the basis for this federal effort.
- Are built upon sound risk management principles, not just reactions to "what if" scenarios. Given the limited resources of all parties involved, not every risk can be mitigated. Risk mitigation steps that do not meaningfully alleviate substantive risks or are not cost effective actually degrade security because they take away resources that could be better spent enhancing security in other ways.
- Address the "bet the company" risk railroads must assume because of their common-carrier obligation to carry highly-hazardous materials.
- Allow police officers of one railroad to exercise law enforcement powers on the property of another railroad.
- Establish a proper balance between efforts to enhance security and allowing the free flow of goods that is critical to our societal and economic health.
- Encourage rapid development and implementation of "inherently safer technologies" as substitutes for highly-hazardous materials, especially TIH.
- Encourage cooperative efforts by TIH transporters, manufacturers, and users to work with appropriate government agencies to move TIH over shorter appropriate routes through "market swaps" and other collaborative arrangements. The overarching goal should be to reduce TIH mileage and time in transit.
- Ensure that any technology that is mandated to track and locate rail cars carrying hazmat and/or to identify actual or imminent hazmat release is fully proven, functional, reliable, and cost effective, and does not impede or endanger existing railroad systems.
- Make expenses mandated by the government (including mandates that result from high-risk corridor assessments) eligible for critical infrastructure protection grants.
- Ensure that a non-profit railroad research facility is an eligible recipient of rail security and R&D grants.
- Make TTCI a member of the National Domestic Preparedness Consortium.
- Engage the expertise and experience of rail industry personnel as significant domestic intelligence assets.

Passenger Railroads

More than 90 percent of the mileage over which Amtrak operates, as well as large portions of the trackage over which many commuter railroads operate, are actually owned and maintained by freight railroads. Therefore, actions taken by freight railroads to enhance security also benefit passenger rail. Freight rail security officials coordinate with and support Amtrak and commuter rail security officials to, among other things, increase uniformed police presence in rail passenger stations. Amtrak, commuter rail and transit authorities, and freight railroads receive and share information through the RAN and the ST-ISAC.

That said, freight railroad security plans and procedures are not specifically designed to protect passengers or substitute for actions that Amtrak or other passenger railroads might choose or be requested to take. Moreover, freight railroads should not be expected to cover costs associated with passenger rail security, and steps taken to enhance passenger security must be designed to minimize undue interference with freight railroad operations.

Conclusion

U.S. freight railroads are proud of the success they achieved in keeping our nation's vital rail transport link open following the September 11, 2001 terrorist attacks. Since then, railroads have taken many steps to increase the security of our nation's rail network, including the development of a comprehensive security management plan that incorporates four progressively severe alert levels. Railroads will continue to work with this committee, others in Congress, federal agencies, and all other relevant parties to further enhance the safety and security of our nation's railroads and the communities they serve.