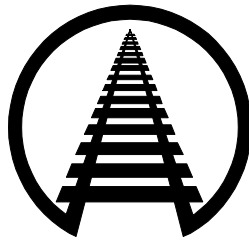


STATEMENT OF
EDWARD R. HAMBERGER
PRESIDENT & CHIEF EXECUTIVE OFFICER
ASSOCIATION OF AMERICAN RAILROADS



BEFORE THE
SENATE COMMERCE COMMITTEE

HEARING ON
TRANSPORTATION SECURITY

MARCH 23, 2004

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to meet with you today to discuss railroad security. AAR members account for the vast majority of rail mileage, employees, and revenue in Canada, Mexico, and the United States.

The AAR and its members join the rest of our nation in extending our sympathy and condolences to the victims of the recent terrorist attacks in Madrid. Those senseless attacks underscore the unfortunate reality that the global war on terror remains unfinished. The attacks also remind us of the importance of security as it relates in particular to railroads.

Freight railroads are keenly aware of the tension between the need for transportation efficiency and the assurance that our transportation systems are adequately protected from terrorist threats. We urge Congress to strike a proper balance between protecting our country's transportation assets and its citizens, and providing for the free flow of goods and promoting our international competitiveness. As Secretary Mineta has remarked, "What we don't want is for our checkpoints to become chokepoints."

Below I will discuss the many ways that U.S. freight railroads have addressed security in the post 9-11 era.

The Immediate Aftermath of September 11

The rail industry reacted swiftly to the events of September 11, in full cooperation with government authorities. In the immediate aftermath of the attacks, railroads tightened security and intensified inspections across their systems. Major railroads — which maintain their own police forces to help assure the security of employees, property, and freight — put into place more than 50 countermeasures to help ensure the

security of the industry. For example, access to important rail facilities and information was restricted. The industry significantly increased cyber-security procedures and techniques. Employee records were compared with FBI terrorist lists. Security briefings, like safety briefings, became a daily part of many employees' jobs.

In late September 2001, the AAR Board of Directors established a Railroad Security Task Force. The task force had the full participation of AAR members, including our Canadian and Mexican members and the American Short Line and Regional Railroad Association (ASLRRA). The overarching focus of this task force was 1) to ensure the safety of rail employees and the communities in which railroads operate; 2) to protect the viability of national and regional economic activity; and 3) to ensure that railroads can continue to play their vital role in the military mission of our nation.

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. The critical action teams were:

1. Information Technology and Communications: This team examined the security of railroad communications, control systems, and information systems, including the evaluation of procedures regarding system redundancy, data confidentiality, emergency incident handling, and reconstitution of service. Based on the efforts of this team, many security measures were implemented immediately across the industry.

2. Physical Infrastructure: This team assessed the physical security of essential bridges, buildings, dispatch centers, tunnels, storage facilities, and other structures. A

database of critical assets was created and recorded in a Geographic Information System. Amtrak's critical assets are included in this database. The team also addressed cross-border and port "gateway" physical security issues.

3. *Operational Security*: This team documented the "life cycle of a train" and determined ways to minimize exposure to unplanned occurrences while trains are in operation. It also addressed the issue of fuel supply.

4. *Hazardous Materials*: This team examined the transport of hazardous materials by rail, with emphasis on materials (such as potentially poisonous gases) that pose the greatest potential safety risk. The team identified current shipping patterns for these materials and worked closely with the chemical industry and tank car manufacturers to evaluate alternatives, including routing restrictions, product remanufacturing, and packaging.

5. *Military Liaison*: This team worked with the Department of Defense and its Military Traffic Management Command (MTMC) to determine immediate and ongoing military traffic requirements and to identify capacity, security, and equipment needs of the industry to meet military demand. The Department of Defense relies on freight railroads to move ordnance and equipment. For example, railroads transported some 98 percent of the ammunition used by the United States in the Iraq war. The MTMC, recently renamed "Surface Deployment and Distribution Command," has designated 30,000 miles of rail corridors — known as the Strategic Rail Corridor Network (STRACNET) — as essential to the national defense. The AAR is in full agreement with this assessment. Our nation's railroad route structure is vital to both homeland security and to the support of DOD initiatives.

In addition to the above activities, freight railroads cooperated fully with a separate team, involving the Federal Railroad Administration (FRA), commuter railroads, and Amtrak, dealing with rail passenger security.

The Terrorism Risk Analysis and Security Management Plan

The end result of the work of the freight railroad critical action teams was the development of a Terrorism Risk Analysis and Security Management Plan (“Plan”), a comprehensive, 24/7 priority-based blueprint of actions designed to enhance the security of the nation’s freight rail network and its ability to support our economy, national defense, and public health.

The AAR Board of Directors adopted the Plan on December 6, 2001, and it remains in effect today. The security processes and analyses detailed in the Plan, including actions and countermeasures, are periodically evaluated — and modified, as appropriate — for effectiveness and to ensure maximum efficiencies from advances in security technology and procedures.

The Plan defines four security alert levels and details the actions to be taken at each level as the terrorist threat increases. Alert level actions are applied in the areas of operations (including transportation, engineering, and mechanical), information technology/telecommunications, and railroad police.

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. Thirty-two actions are in effect at this level, including conducting security training and awareness activities; restricting certain information to a need-to-know basis; restricting

the ability of unauthenticated persons to trace certain sensitive materials; and periodically testing that security systems are operating as intended.

Alert Level 2 is “Heightened Security Awareness” and applies when there is a general non-specific threat of possible terrorist activity involving railroad personnel and facilities. Twenty-one additional actions are in effect at this level, such as including security and awareness briefings as part of daily job briefings; conducting content inspections of cars and containers for cause; conducting spot content inspections of motor vehicles on railroad property; and increasing security at designated facilities.

As of today, the freight rail industry is at Alert Level 2, with a number of added security actions focused on transportation of certain hazardous materials in several metropolitan areas. These extra precautions are in place to address special circumstances as described to the railroad industry by the Department of Homeland Security.

Alert Level 3 is put into place when there is “a credible threat of an attack on the United States or railroad industry.” It applies when an increased, credible, and more specific threat of terrorist activity exists than at Level 2. A decision to declare Level 3 will be evaluated in light of the specificity of threat against railroad personnel and facilities. The 40 additional actions in Level 3 must be capable of being maintained for weeks without causing undue hardship on railroads or their customers. 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 railroad industry exists, an actual attack against a railroad or an attack in the United States causing mass

casualties has occurred, or other imminent actions create grave concerns about the safety of operations. There are 19 additional actions to be implemented at this level that will be instituted for up to 72 hours and periodically evaluated for continuation. These include stopping non-mission-essential contract 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 ensuring continuous presence of guards at designated facilities and structures.

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

The Railway Alert Network and ST-ISAC

To help ensure that the parties involved have access to pertinent intelligence and other information, the rail industry is in constant communication with intelligence and security personnel at the Department of Homeland Security (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 knowledgeable railroad analysts work literally side-by-side with government intelligence analysts at NJTTF and in two intelligence offices within DHS (the Information Analysis and Infrastructure Protection Directorate and the Transportation Security Administration) to help evaluate intelligence at the Top Secret level.

The heart of this communication system is the Railway Alert Network (RAN). The major purpose of the RAN, which was established by the AAR shortly after

September 11, is to monitor the level of threat to the rail industry and to alert the industry if it changes. The hub of the RAN is AAR's Operations Center, which operates at the Secret level and is staffed with mobile communications around the clock at Alert Level 2 and is physically staffed at Levels 3 and 4.

The RAN is linked to the Surface Transportation Information Sharing and Analysis Center (ST-ISAC). The ST-ISAC, which was created by the AAR at the request of the U.S. Department of Transportation, provides a robust capability for collecting, analyzing, and distributing security information from worldwide resources to protect vital physical assets and information technology systems. Cleared at the Top Secret level, the ST-ISAC also operates 24-hours-a-day, 7-days-a-week. Along with the freight railroads, Amtrak and approximately 75 transit and commuter rail authorities (through the American Public Transit Association) are members of the ST-ISAC.

Obviously, rail 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 and inspectors working along the tracks, railroad police officers, and others. They are the “eyes and ears” in the industry's security effort, and we should all be grateful for their vigilance and care.¹

In recognition of the thoroughness of the railroad security plan and the dedication with which it has been put into effect, in June 2003 the Association of American Railroads was named a recipient of the U.S. Department of Defense's James S. Cogswell

¹ Under existing federal law, railroad police officers have law enforcement authority only while on the property of their own railroad. However, Section 212 of S. 1402 (the “Federal Railroad Safety Improvement Act”), which passed the Senate in November 2003 and has been referred to the House Committee on Transportation and Infrastructure, would grant railroad police enforcement authority on *any* railroad. Railroads strongly support this provision and commend this committee for its support of it.

Award for Industrial Security. The Cogswell Award is the most prestigious award in the industrial security field. Of nearly 11,000 cleared contractors, only 15 were selected to receive the award in 2003. The railroad industry is also one of the few private sector industries to receive an “A” for its security efforts in a recent independent analysis by *The Washington Post*.

Notwithstanding all of these rail industry efforts, we recognize that there can be no 100 percent guarantee against terrorist assaults. If such an assault involving freight railroads occurs, railroads have established programs and procedures that can and will be invoked that are designed to respond to, mitigate, and minimize the impact of dangerous and unusual incidents. The programs and procedures include the establishment of emergency response plans for hazardous materials incidents, operational administration redundancy, and the training of rail employees and public emergency response personnel.

Railroad Hazardous Materials Movements

Railroads work to ensure the continued safety of hazardous materials transport in numerous ways.

For example, railroads provide rigorous tank car quality assurance programs, field testing, and inspections of chemical loading facilities; assist communities in developing and evaluating emergency response plans; provide hazmat training for emergency responders; and support Operation Respond, a nonprofit institute devoted to improving the communication of emergency response information to police and fire departments.

Tank cars must meet stringent U.S. DOT specifications if used to transport hazardous materials. For example, they must be equipped with pressure relief devices (to protect the tank in the event of fire) and double shelf couplers (to prevent tank punctures

by a coupler). Some cars also have steel “head shields” at each end of the car (to further protect against puncture), thermal shields, jacketed insulation systems, and protected top and bottom fittings.

The AAR and the railway supply industry jointly fund the Tank Car Safety Research and Test Project. This project monitors tank car accidents and is continually updating a comprehensive database on the precise nature of damage to tank cars. Analysis of these data improves safety by improving researchers’ ability to identify the causes of tank car releases and how to help prevent future occurrences. The project database is often cited by the U.S. DOT as a role model for other modes of transportation. In addition to its ongoing safety data collection and analysis activities, the project also has a number of ongoing research efforts, including efforts aimed at developing better steels for tank cars and developing a method for testing the effectiveness of surge suppression devices for tank cars.

Going forward, the railroad industry is committed to using resources at its disposal and continuing to work closely with federal security agencies and with local and state authorities to help ensure that our nation’s security and safety are not compromised. At the same time, it must be recognized that the flow of many types of essential products — including some products that are characterized as “hazardous materials” — cannot be unreasonably disrupted without causing significant damage to our nation’s health and economic well being.

Chlorine, for example, is potentially extremely dangerous if misused or mistreated. At the same time, the chemical is absolutely critical to our physical health because of its widespread use as a purifier at water treatment facilities, in a huge array of

pharmaceutical products, and in hundreds of other uses. Even a brief shutdown of the transportation of chlorine would have potentially devastating effects.

The rail industry cautions against actions that might appear appealing at first glance, but in reality could be contrary to the public interest. For example, railroads oppose Section 443(g) of S. 1978, the “Surface Transportation Safety Reauthorization Act of 2003,” which passed the Senate as part of the TEA-21 reauthorization bill. This provision authorizes the U.S. DOT to grant to state or local authorities the power to preempt federal law regarding hazmat transportation during certain “emergency” situations. Railroads also oppose efforts to grant to local governments the authority to restrict rail movements.

Railroads operate as part of an integrated national network and regulatory constraints on operations can have a ripple effect throughout the rail system. The effect is not circumscribed by state or local boundaries. Because rail transportation is inherently interstate in nature, the safe rail transport of any commodity, including hazardous materials, requires a uniform set of standards that apply nationwide.

This uniformity would be severely jeopardized if states or localities sought to force rerouting by prohibiting the transportation of hazardous materials within their jurisdictions. If this happened, optimal transportation routes, from the perspective of national safety and security, might be foreclosed. For example, rerouting can involve an increase in miles traveled, and those additional miles could be on rail infrastructure less suitable (for a variety of reasons) to handling hazardous materials. Emergency response capability along alternate routes may lack requisite expertise in handling the most dangerous commodities. Additional switching and handling of cars along with added

“dwell time” in yards — all potential consequences of using less efficient routes — also have the effect of increasing exposure.

Indeed, given the limited routing options for rail transportation, rerouting mandates of this sort could effectively result in the near cessation of hazardous materials transportation by rail, leading to the diversion of such traffic to the nation’s highways where the likelihood of accidents involving hazardous materials is far higher.²

Recently, the D.C. City Council has raised concern about the transportation of hazardous materials through the city. The railroad industry is cooperating fully with the DHS, the DOT, and the city government to assess the security of the rail corridor that runs through Washington, DC. Within the last week, vulnerability assessment teams conducted an intense review of the railroad property within the Beltway. Since the terrorist attacks on September 11, 2001, CSX Transportation, which owns the railroad, has “hardened” that corridor by adding surveillance, restricting access, enhancing Communications, and coordinating with local law enforcement, U.S. Capitol Police and the Department of Defense. This ongoing assessment will identify any additional countermeasures that may be required.

The rail industry agrees that vigilance in the transportation of hazardous materials must be maintained, and efforts must be made to increase hazmat safety where possible and practical. But decisions to reroute potentially hazardous products must be based upon sound analysis of the consequences. To address problems associated with the transportation of important chemicals, the rail industry is working closely with the

² According to U.S. DOT data, railroads and trucks carry roughly equal ton-mileage of hazardous materials, but trucks have nearly 16 times more hazmat releases than railroads.

chemical industry, DOT, DHS, the Homeland Security Council at the White House, and others to address potential vulnerabilities — and recommend appropriate safeguards — in an analytical and comprehensive fashion.

One of the issues of concern identified by the rail industry in the course of its risk assessment is a federal requirement to place placards on rail cars carrying hazardous materials. Local first responders use the information posted on placards to determine car contents. The industry is working with the FRA and the Transportation Security Administration to study alternative means of providing car content information to the emergency response community. If successful, this could serve as a substitute for the reliance on placards.

In developing the industry's security plan, the railroads closely coordinated with major customer groups to avoid logistical gaps in the supply chain. For example, the Chlorine Institute subsequently developed a chlorine transportation security plan that dovetails with the railroads' plan. The American Chemistry Council and the AAR are working toward agreement on how to coordinate security measures for shipments of other hazardous materials.

Passenger Railroads

More than 90 percent of the route mileage over which Amtrak operates, as well as a significant portion of the trackage over which many commuter railroads operate, is actually owned and maintained by freight railroads. Therefore, actions taken by freight railroads to enhance security also benefit passenger rail. Freight railroad police coordinate with and support Amtrak police to, among other things, increase uniformed police presence in rail passenger stations. Amtrak, commuter rail and transit authorities,

and the freight railroads receive and share threat and incident information through the RAN and the ST-ISAC. That said, freight railroad security-related plans and procedures are not specifically designed to protect passengers or to be a substitute for actions that Amtrak or other passenger railroad operators might choose to take.

Port and Border Security

The issue of port security is separate and distinct from the issue of rail security, although railroads, by virtue of the fact that they carry millions of containers unloaded from or loaded on to steamships each year, are certainly impacted. Ports have spent hundreds of millions of dollars enhancing their security, much of it funded by federal grants. Railroads work closely with the Captains of Ports to ensure compliance with Coast Guard regulations regarding port facility security.

Freight railroads operating in the United States, Canada, and Mexico form a seamless, coordinated, and heavily-traveled network, with hundreds of thousands of railcars and intermodal units crossing each border each year. Railroads work diligently with the U.S. Bureau of Customs and Border Protection (CBP) and others to enhance border security.

For example, one year ago, United States and Canadian customs agencies and Canada's two major railways signed a declaration of principles to enhance security at the Canada-U.S. border and to ensure secure rail access to the United States. The declaration — signed by CBP, Canada Customs and Revenue Agency (CCRA), Canadian National Railway (CN), and Canadian Pacific Railway (CP) — outlines principles for targeting, screening, and examining rail shipments transported by the Canadian carriers into the United States. The declaration includes guidelines for the electronic transmission of

cargo information by the railroads to customs officials in advance of each train's arrival at the border and installation of Vehicle and Cargo Inspection System (VACIS) and radiation detection equipment at CN and CP border crossings.

Rail VACIS systems, which are also in use at rail border crossings with Mexico, use gamma ray technology to scan entire trains one railcar at a time. The gamma ray source and detectors are stationary as the train moves through the system. Inspectors examine scanned images of rail cars for contraband, potential terrorists, or terrorist weapons without opening them and potentially endangering lives. Suspicious rail cars are segregated for inspection, with minimal disruption to the flow of legitimate commerce. Today, where CBP has installed this equipment on the borders with both Canada and Mexico, 100 percent of rail cars are screened.

U.S. freight railroads are also active participants in the Customs-Trade Partnership Against Terrorism (C-TPAT). C-TPAT is a joint government-business initiative within the CBP to build cooperative relationships that strengthen overall supply chain and border security. Through this initiative, CBP is asking businesses — including railroads — to ensure the integrity of their security practices and communicate their security guidelines to their business partners within the supply chain. I am happy to report that all U.S. Class I railroads are currently C-TPAT certified. The certification process involves a comprehensive review of a railroad's procedural security, physical security, personnel security, education and training, access controls, manifest procedures, and conveyance security.

Railroads have also been active participants in the significant expansion of Integrated Border Enforcement Teams (IBET) across the U.S./Canada border. The

mandate of these teams is to enhance border integrity and security by “identifying, investigating and interdicting persons and organizations that pose a threat to national security or engage in other organized crime activity.”

Finally, on January 5th, 2004, final regulations issued by the CBP went into effect requiring all transportation modes to submit cargo information electronically before arriving at the U.S. border; the rail industry was an active participant in the regulatory process. The required minimum advanced notification for rail cargo is two hours. Railroads are complying with this requirement. The two-hour requirement is a substantial improvement over the 24-hour notification period first proposed by CBP, which would have been devastating to the efficient flow of commerce within our nation.

Funding

Railroads have been underwriting the cost of security measures for the benefit of the general public and for national defense, in addition to normal expenditures made to ensure the safety of rail operations. Additional protective measures required at the highest alert levels cannot be sustained by the industry alone. This is reflected in the railroads’ Plan, which, at these higher levels of alert, calls for the use of National Guard and local law enforcement support to augment industry protection of critical infrastructure. In order to effectively achieve such protection, advanced planning will be required to coordinate the process among all the relevant parties.

The rail industry is also seeking to continue technical research into protective measures and emergency response protocols and has identified a need for \$15 million in federal assistance to help achieve these objectives.

Finally, the rail industry may wish to request assistance for the costs brought about by extraordinary security measures required by any future government mandates.

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 a number of 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. We 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.