



# U.S. Department of Transportation Federal Railroad Administration

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## Overview of Proposed Rail Safety & Security Rulemakings

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# Federal Authority

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## DOT

Authority to regulate safety and security of hazardous materials transportation

Hazardous Materials Transportation Law (49 U.S.C. 5101 et.seq.)

Federal Railroad Safety Act (49 U.S.C. 20101 et.seq.)

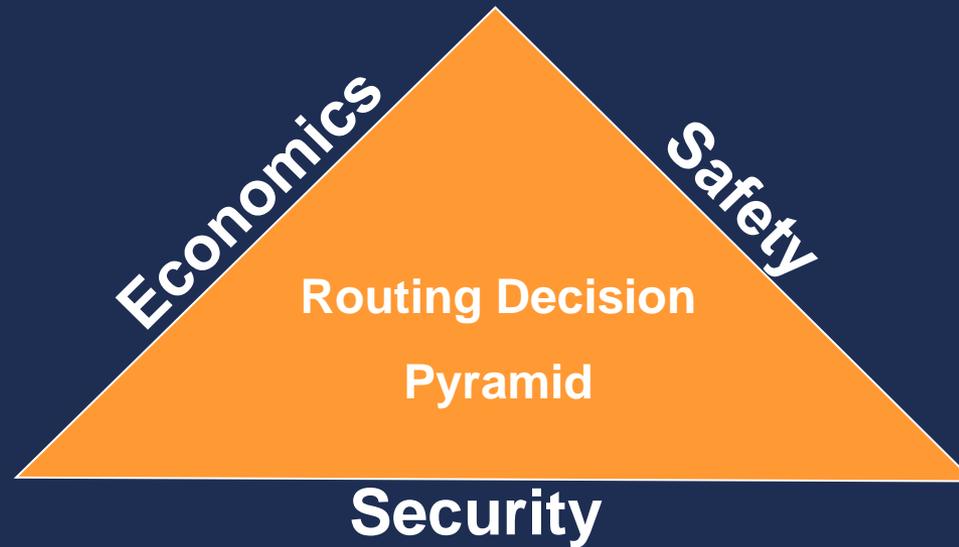
## TSA

Authority to regulate security of hazardous material transportation

Aviation Transportation Security Act (Pub. L. 107-71, 115 Stat. 597)



# Routing as a Part of the Transportation Cycle



Routing decisions are continually made as a part of the transportation cycle for a variety of reasons.



# DOT NPRM HM-232E

**NPRM published on December 21, 2006.**

Seeks to clarify and enhance existing regulations.

**Rail Carriers who transport carloads of more than 5000 lbs of 1.1, 1.2, or 1.3 Explosives, bulk TIH/PIH materials and/or HRCQ RAM would be required to:**

Collect annual data on routes used to transport these materials.

Use data to analyze the safety & security risks on each route and the “Next Most Commercially Practicable” route considering no less than the minimum 27 risk factors and choosing the safest and most secure route.  
(Could mitigate to address specific safety/security concerns)

Communicate and address transit delays with consignees.

Address en-route storage.

**All Carriers would be required to perform security inspections in conjunction with required safety inspections**



## DOT NPRM HM-232E

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On 01-10-07 DOT published notice in the Federal Register about two public meetings on the NPRM:

Meetings held on 2-1-07 in DC and 2-9-07 in Dallas, TX

The NPRM comment period closed on 2-20-07



# DOT NPRM HM-232E

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- **Draft Final Rule currently in circulation for review at DOT**
- **Planned issuance of Final Rule expected by NLT September, 2007.**
- **Issuance of companion TSA Final Rule planned at same time.**



# TSA Rail Security Rule

NPRM published on December 21, 2006 to “enhance the security of the nations rail transportation system.”

Addresses ALL rail carriers PLUS fixed facilities that ship/receive the specific Hazmats addressed in DOT NPRM\*

\* One major difference: Tank cars of TIH/PIH vice bulk pkgs.

Clarifies TSA’s inspection authority – ALL RAIL CARRIERS

Requires designation of a Rail Security Coordinator & reporting of significant security concerns to DHS – ALL FREIGHT RAIL CARRIERS/HM SHIPPERS/HM RECEIVERS IN HTUA’s & PCO’S ON OR CONNECTED TO GENERAL RR SYSTEM



# TSA Security Rule (Cont...)

## CAR LOCATION REPORTING

Rail freight carriers must provide TSA information on specified hazmat shipments within 1 hour after a request

Also applies to all HM Rail Shippers and Rail HM Receivers in HTUA's with cars in their physical custody & control

Must provide required information in acceptable formats (specific electronic & hardcopy formats ).

TSA also solicited comments on shorter timeframes for providing location/shipping info for single rail cars (5 min max) & location/shipping info of all rail cars (30 min max) for all FRRC, RHMS & RHMR of specified HM



# TSA Security Rule (Cont...)

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## CHAIN OF CUSTODY & CONTROL

Addresses documented custody transfer, performance of a security inspection and maintaining secure custody of shipments among all parties in the transportation stream - carriers, shippers, and consignees - of high hazard commodities both within and outside of defined High Threat Urban Areas.



# TSA Security Rule (Cont...)

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## CHAIN OF CUSTODY & CONTROL

Security Inspection - Shipper and rail carrier, both within or outside of High Threat Urban Areas (HTUA), as defined.

Documented custody transfer - Shipper, rail carrier and consignee, both within or outside of HTUA's.

Secure control - Shipper, carrier and consignee, both within and outside of HTUA's



## TSA Security Rule (Cont...)

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On January 19, 2007 TSA published notice in the Federal Register of a Public Meeting on their proposed regulations:

10:00 AM to 4:00 PM on February 2, 2007 - Arlington, VA.

The NPRM comment period closes on February 20, 2007.

DHS Secretary has committed to having Final Rule issued by NLT September, 2007



# TSA Security Rule (Cont...)

## Rules of construction problems

Seemingly interchangeable use of term “rail car” in reg text vs. specificity of PIH/TIH materials to “tank cars” which is a subset of rail cars:

In 1580.103(b) for example

Use of RHMR’s in parts of reg text, a defined term of wider application, conflicts with stated application in preamble and specific Applicability of section which states RHMR’s in HTUA’s:

In 1580.103(d) vs. 1580.103(a)(3) for example



# DOT/DHS Memorandum of Understanding

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## **FRA/TSA September 28, 2006 Annex**

### **Provides for coordinated procedures on :**

1. Planning, Inspection, Training, and Enforcement Activities
  2. Criticality and Vulnerability Assessments
  3. Communicating with Stakeholders
  4. Use of Personnel and Resources
5. Coordinated Research and Rulemaking Activities

This is an annex to the Overarching September, 2004  
MOU between DOT and DHS.



# Building the Tools

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## **Public/Private Partnership**

### **\$5 Million Grant to Railroad Research Foundation**

Rail Corridor Risk Management Tool

Safe Haven Pilot Project - NJ

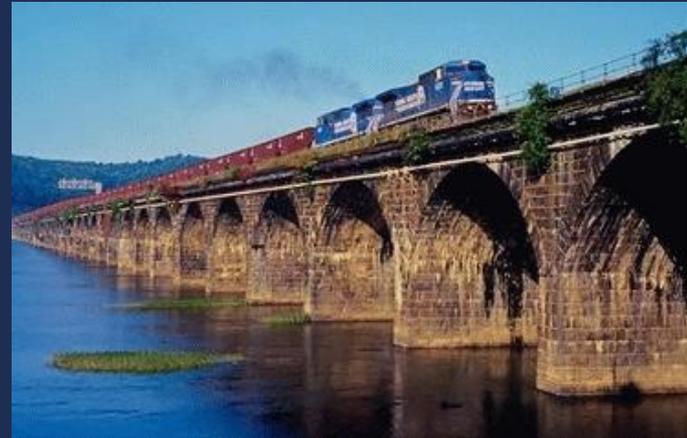
Rail Corridor HM Response and Recovery Tool

Provides a formal methodology for compliance with regulations as well as a framework for improving communications with response organizations and communities.



# Questions

Still have questions  
or concerns?



- Contact me at 202.493.6315
- Visit FRA's web page at [www.fra.dot.gov](http://www.fra.dot.gov)
- Visit PHMSA's web page at <http://hazmat.dot.gov>
- E-mail me at [kevin.blackwell@dot.gov](mailto:kevin.blackwell@dot.gov)
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