GREENPEACE
702 H Street, NW, Suite 300, Washington, DC 20001
Tel: 202-462-1177 • Fax: 202-462-4507
1-800-326-0959 • www.greenpeaceusa.org

"You've heard about sarin and other chemical weapons in the news. But it's far easier to attack a rail car full of toxic industrial chemicals than it is to compromise the security of a military base and obtain these materials."
--- FBI weapons of mass destruction specialist, Troy Morgan

QUESTIONS & ANSWERS ON THE RE-ROUTING LANGUAGE IN THE HOUSE RAIL SECURITY BILL

Can railroads afford to re-route around High Threat Urban Areas?

The CSXT railroad has been re-routing around Washington, D.C. since mid-2004. In Federal District Court CSXT admitted they began re-routing ultra-hazardous cargo around D.C. following the March 11, 2004 terrorist attacks on Madrid passenger trains. Since February 2005 CSXT has continued to re-route during the litigation it initiated to challenge the 2005 D.C. re-routing law. In addition, all railroads routinely use "interchange agreements" on a daily basis to efficiently shift cargo between different owners and operators. In his Federal Court filing on the D.C. law, railroad lawyer and logistics expert, David J. Shuman concluded that re-routing "could result in a net benefit to carriers and shippers."

Would re-routing always be required around High Threat Urban Areas?

No. The House language is focused on **through shipments** of ultra-hazardous "security sensitive" materials going through High Threat Urban Areas (HTUAs) and other "areas of concern" and would **NOT** apply when**:**

- The shipment's origin or destination is in an area of concern
- There is no practical alternative route
- An attack would NOT result in harm beyond rail property

Do railroads have alternative routes around High Treat Urban Areas (HTUAs) and other areas of concern?

Yes, in most situations they would simply use "interchange agreements" to trade cargo with other rail companies to most efficient ship the most hazardous cargo. Interchange agreements are used hundreds of times a day for business reasons but NOT for security reasons to protect HTUAs and other "areas of concern."

Will re-routing rail cars shift the transport of dangerous chemicals to trucks and increase the risk of accidents?

No. Shifting this cargo from rail to trucks is neither feasible nor desirable. Ninety-five percent of the ton miles of TIH substances are shipped by rail, according to the GAO. The availability of many safer alternative rail routes for "through" shipments makes re-routing by rail both feasible and desirable in high threat urban areas.

Will re-routing shift dangerous cargoes to other communities where railroad tracks may not be as safe? Will this increase transport distances and therefore accident risks?

All major U.S. freight rail lines already carry TIH cargo. Given the relatively small volume of TIH traffic subject to re-routing and the use of interchange agreements there should be no net increase in cargo to any rail line and only a small increase in TIH cargo on any single rail line. If any rail line is found to be less safe in rural areas this should be an enforcement issue for the federal government.

Through the routine use of interchange agreements there is no reason to significantly increase transport distances. When railroads claim extremely long re-routing distances, they assume the cargo will remain exclusively on their OWN track from origin to destination.

Is re-routing costly to the railroads?

No. The use of interchange agreements will make re-routing revenue neutral as shippers will be free to swap cargo between different owners and operators.

The cargo of greatest concern is a very small fraction of freight cargo. According to Argonne National Laboratories, only 10 of the 150 most shipped hazardous materials are toxic-by-inhalation (TIH). According to the Association of American Railroads, TIH cargo represents only 0.3% of all freight cargo. However, TIH cargo is by far the largest group of ultra-hazardous cargo capable of being turned into a weapon of mass destruction (WMD).

According to CSXT court filings, their total hazardous materials freight traffic going through Washington, D.C. in 2003 was approximately 11,400 rail cars (31/day). However, fewer than two rail cars of chlorine a day were transported on DC rail lines throughout 2003. --- Chlorine is one of the 10 most shipped TIHs.

Should rail security regulations be "threat-based," relying on the latest intelligence?

No. Intelligence will ALWAYS be imperfect as we saw with the September 11th attacks and again in Iraq. Eliminating terrorist opportunities for mass casualty attacks should be the first step we take to prevent catastrophic attacks and accidents. Re-routing is among the most immediately feasible of these first steps. Converting chemical facilities to safer technologies is another.

Thirteen people died in U.S. rail accidents involving chlorine gas since June 2004. Hundreds of people have been murdered in terrorist attacks on trains in London and Madrid. The 9/11 Commission Report identified a "failure of imagination" as the number one inadequacy leading up to the 9/11 attacks. Our rail roads are among the most vulnerable sectors of U.S. critical infrastructure.

Given the railroads experience in transporting dangerous cargo safely shouldn't they be trusted to regulate themselves?

No. On November 7, 2004 and November 7, 2004 and January 9, 2005 *The New York Times* exposed the all too cozy relationship between the federal regulators such as the Federal Railroad Administration (FRA) and railroads. For example although Union Pacific says they paid $4.1 million in fines in 2003, federal regulators acknowledged that they levy fines for only about 2 percent of all violations that are discovered. The FRA investigated only four of approximately 3,000 grade crossing accidents and failed to enforce its own rules requiring the prompt reporting of grade crossing fatalities.

Aren't these chemicals essential for our society and don't they have to go through someone's community?

No. Virtually all of the most dangerous chemicals subject to re-routing have safer alternatives already in use. Since 9/11 more than 200 chemical facilities have eliminated or reduced threats to their local community by converting to safer chemicals or chemical processes.

In Washington, D.C. the Blue Plains wastewater treatment plant halted its use of chlorine and switched to safer chemicals just eight weeks after the 9/11 attacks due to fears of another attack.

The U.S. EPA has identified four chemical (chlorine, ammonia, hydrogen fluoride, sulfur dioxide) processes that account for 55% of the threats posed to communities. There are safer alternatives already in widespread use for all four of these.