

Status: Active

DOE Lead: National Transportation Program (NTP-AL; Steve Hamp @ 505-845-5640)

Start Date: 7/93

End Date:

Purpose: Determine state and tribal authority to stop and inspect rail shipments of radioactive materials.

Approach: OCRWM will discuss with and/or forward correspondence to the Federal Railroad Administration requesting their determination as to the rights of states and tribes to stop and inspect rail shipments of radioactive materials.

The TEC/WG Rail and Tribal Issues Topic Groups will pursue concurrent examination of issues related to rail inspection and authority.

History: DOE sought to clarify state and tribal authority to stop and inspect rail shipments of radioactive materials.

Updates:

(as of 1/95): DOE/RW made presentations to the TEC/WG on the FRA State Participation Program. DOE/RW met with FRA to discuss the requirements of Section 180(c) of NWPA and the applicability of the CVSA procedures to rail shipments. DOE is discussing the assistance it can provide DOT to include a radioactive module in their State hazardous materials training course for their State Safety Inspection Program. OCRWM has continued its discussion with FRA and will be attending a National Conference of State Railway Officials in August 1994 and a National Conference of State Transportation Specialists in June 1994. Updates from these meetings were provided at the July 1994 TEC/WG. RW has continued to meet with FRA on a routine basis to discuss inspection issues.

(as of 7/95): The primary aim of this task plan is to identify current inspection and enforcement authority for hazardous materials rail transportation and then to ensure that these activities are being done in an efficient manner, similar to the CVSA inspection system for highway shipments. Previous task plans have identified areas to research for comparison to existing practices in rail shipping. These include CVSA procedures, current NRC requirements, current DOE requirements, and state and tribal practices. DOE requested information from FRA by letter (June 1995) and continues to work closely with FRA staff. Research on existing NRC regulations and NRC Agreement States has begun.

(as of 1/96): FY96 budgetary constraints have affected the progress for this task plan. The planned effort and work with FRA will continue.

(as of 7/96): At the January 1996 meeting, it was announced that DOE was awaiting a legal opinion from the FRA on the rights of states and tribes to stop and inspect rail shipments. The State of Illinois has been performing inspections on rail shipments; however, it is unclear what specific authority the State has to stop a train and these inspection activities have not been challenged. A representative of FRA said he would check with FRA general counsel to expedite this response.

(as of 1/97): OCRWM has not received a response from FRA, the issue has been raised to OCRWM management.

Initial meeting of Rail Issues Topic Group; TEC/WG members present Group with seven issues to review, including inspection and enforcement authority pertaining to rail shipments.

(as of 7/97): In a May 29, 1997 letter to the FRA, OCRWM requested a position on the rights of state and tribal authorities to stop and inspect rail shipment, enforce state, tribal and/or Federal rail regulations, and requested information on the roles and authority of FRA inspectors as compared to FRA certified state or tribal inspectors under the State Participation Program, as well as independent state and tribal inspectors.

Rail Issues Topic Group convenes in Albuquerque; agrees to compile summary and comparison matrices related to regulatory applicability and inspection issues.

(as of 11/97): First drafts of *Rail and Highway Regulations Relative to the Transportation of Radioactive Materials and their Applicability to States, Tribes, Shippers, and Carriers* (Matrix #1) and *Comparison of CVSA Recommended National Procedures and Out-of-Service Criteria for the Enhanced Safety Inspection of Commercial Highway Vehicles Transporting Transuranics, Spent Nuclear Fuel, and High Level Waste to Rail Inspection Standards* (Matrix #2) completed by Rail Issues topic group.

(as of 12/97): Rail Issues Topic Group member comments incorporated into draft regulatory and inspections matrices; second drafts sent to TEC/WG participants for review in 30-day advance mailing with explanatory coversheet.

(as of 1/98): To date, OCRWM has received no response from the FRA.

Rail Issues topic group meets in Las Vegas; Group reviews and revises second drafts of matrices. Group introduces matrices to TEC/WG members with comment deadline of 3/1/98.

(as of 7/98): OCRWM still expecting a response from the FRA. The rights of Tribal authorities to stop and inspect rail shipments will be addressed in the Tribal topic group.

TEC/WG comments on matrices incorporated. Rail Issues Topic Group agrees to submit Matrix #1 for review of "tribal applicability" section by Tribal topic group. Rail group presents both matrices as "living documents" to TEC/WG membership at July 1998 meeting.

(as of 01/99): FRA is working with its General Counsel to finalize letter addressing state and tribal authority to stop and inspect rail shipments by December 1998. Letter should be distributed to TEC/WG at Winter 1999 meeting in Jacksonville.

The Rail topic group is developing a *TEC/WG Transportation Safety Rail Companion*, with the purpose of providing summary information to TEC/WG members and participants concerning the approach used for the rail mode in addressing a variety of transportation issues, objectives, approaches and procedures arising from the shipment of DOE-owned radioactive materials. It is anticipated upon conclusion of this task that the group will disband.

(as of 7/99): FRA is in final stages of delivery of reply to OCRWM letter concerning state and tribal authority to stop and inspect rail shipments. Letter should be distributed to TEC/WG at Summer 1999 TEC/WG meeting in Philadelphia.

The Rail topic group released version 1.0 of summary paper *TEC/WG Transportation Safety WIPP-PIG Rail*

Comparison to TEC/WG at Summer 1999 meeting in Philadelphia. As of May 1999 the topic group has disbanded.

Milestones:

- 7/93 Task proposed
- 1/94 Draft task plan completed
- 1/94 Draft task plan reviewed by TEC Working Group
- 7/94 Provide FRA with CVSA Training materials and inspection procedures
- 10/94 Collect information about Federal and state training programs for inspection of radioactive material rail shipments
- 6/95 Staff sent a letter to FRA requesting position on state and tribal authority to stop and inspect rail shipments.
- 1/97 TEC/WG Rail Issues Topic Group tasked by TEC/WG membership with examination of inspection and enforcement authority pertaining to rail shipments.

- 5/97 OCRWM sent a letter to FRA requesting position on state and tribal authority to stop and inspect rail shipments.
- 7/97 Rail Issues Topic Group decides to compile summary and comparison matrices related to regulatory applicability and inspection issues.
- 12/97 Rail Issues Topic Group distributes second draft versions of regulatory and inspections matrices to TEC/WG members and participants for review in 30-day advance mailing.
- 7/98 Rail Issues Topic Group completes matrices; presented as “living documents” to TEC/WG membership at July 1998 meeting, subject to periodic review and revision as needed.
- 7/99 Rail Issues Topic Group presents version 1.0 of *TEC/WG Transportation Safety WIPP-PIG Rail Comparison* to TEC/WG at Summer 1999 meeting in Philadelphia.

Comments:

~~This task plan was formerly identified as II-G.8 and combines the following former task plans because each involves rail inspection procedures, whether by DOE, FRA, States, or tribes, or compared to CVSA: II-G.8 Assess CVSA procedures for applicability with FRA inspection procedures; II-G.9 Compare SNF shipment inspection procedures to FRA procedures; II-G.11 Develop a plan to study issues related to rail inspection procedures; II-F.5 State inspections regarding rail enforcement issues.~~