



October 14, 2004

Dockets Management System
U.S. Department of Transportation
400 Seventh Street, SW
Nassif Building
Room PL-401
Washington, DC 20590-001

RE: Docket No. RSPA-20004-18730

Dear Sir or Madam:

Rhodia Inc. is a manufacturer of specialty chemicals, providing products and services to the consumer care, pharmaceuticals, automotive, petrochemical and environmental markets. Rhodia has over 18 locations in the US alone that are involved in the domestic and international shipment of hazardous materials by all modes of transport, including Toxic Inhalation Hazard products by rail. While we certainly support the efforts of DOT and TSA in promulgating rulemakings to improve the security of hazardous material shipments, we have concerns about certain proposals being considered in this notice. Rhodia respectfully offers the following comments on the RSPA/TSA Enhancing Rail Transportation Security for Toxic Inhalation Hazard Materials notice:

1. Security Plans

- A number of methodologies were reviewed and utilized, at least in part, by Rhodia in developing its Transportation Security Plan. Material and guidance provided by the ACC and the DOT were of the greatest help in developing this plan. The methodologies used were applicable to all shipments of hazardous materials, not just TIH. The plan does include a layered aspect that is tied to both the DHS and MARSEC threat levels.
- While we support the development of model security plans or “best practices”, it must be remembered that each shipping location is unique and any plan must be flexible enough to allow it to be tailored to individual use.
- Rhodia does not support the submission of security plans to the DHS for review.
- Rhodia does support the concept of a single, integrated security plan that would incorporate the components of DOT, Coast Guard, and TSA requirements in a single plan rather than requiring separate plans, with sometimes differing requirements, for each agency.

2. Hazard Identification

- The current placarding scheme is internationally recognized in nature, and, in most respects, harmonized throughout most of the global shipping community. It has proven its effectiveness in emergency response situations time and again. While Rhodia does not support the complete removal of placards from TIH rail cars, we would support a move to bring TIH placarding back in line with international and global requirements. The TIH placard is the only placard not recognized by international transportation regulations. Rhodia recommends reverting back to the placard used for Toxic (Div. 6.1) PG I and PG II materials for TIHs. This would eliminate specific placarding identifying the material as a TIH, but through the use of the displayed ID# and supporting documentation, continue to identify the material appropriately. Since TIHs were routinely and safely shipped this way for many years prior to the advent of the TIH placard, reverting back to the Div. 6.1 placard should not pose any additional safety hazards to emergency responders or shipper personnel.
- Rhodia would support the removal of other identifying marks on the rail cars, such as “Inhalation Hazard” and the Proper shipping name providing it could be proved to have a distinct benefit to security.
- As mentioned above, the placarding scheme is international in nature, and required for compliance with shipments to countries such as Mexico and Canada. If the placarding requirement is removed in the US, this would place shipments intended for Canada and Mexico out of compliance with those transport regulations. It would be necessary to develop some means by which the placards could be affixed (or removed) from tank cars shipped to or from these countries. This not only would result in shipment delays and possible congestion of traffic in areas of concern, the ultimate result would be that these cars would be in transit for a longer period of time, with an increased period of exposure.
- If placarding requirements are completely removed from these shipments, then it would be necessary to develop and test any system that would be in consideration to take its place. It would be necessary to train emergency responders and plant personnel in its use, and ensure that the system works as effectively and safely as the current system. To remove placarding requirements without having a tried and tested system ready to take its place would cause more safety concerns than benefit. However, such a system will not resolve the compliance issue of shipping to Canada, Mexico or international shipments if these requirements are expanded to other modes of transport and package sizes.

3. Temporary Storage of TIH Materials in Rail Tank Cars

- There is a concern about the lack of control over TIH material while stored-in-transit at a rail yard. While facility transportation plans can address the issue of tank car security and securement while still in-plant, enroute security, from a shipper point of view, is more a matter of trying to prevent access to the material in the car, through the use of tamper-proof or tamper-evident devices such as steel cables, bolts or dome rings. Access to the car itself is under the control of the railroad involved and is only as good as their yard

security. It may be that additional measures may be required to provide better security for rail cars while stored in transit. Alternatively, expediting the movement of rail cars so that less time is spent stored in transit may be of benefit to all parties concerned.

4. Tank Car Integrity

- As mentioned in the notice, tank cars intended for use with TIH materials must meet extremely stringent design and inspection requirements. I have seen these cars withstand derailments without any loss of tank contents. While this is really a question to be answered by the engineering groups of the railroads, I don't believe there is any tank car that can withstand a direct terrorist attack by bomb, rocket grenade or missile.
- A point to take into consideration regarding strengthening the integrity of tank cars is that increasing the weight of the car will reduce the amount of product that can be placed in it. Reducing the amount of product that can be shipped in a single car will result in increasing the number of shipments of TIH materials required to be made. This means more shipments, more in-transit time, more exposure time as a potential target, and also an increased number of loadings and unloadings required to be performed by facility personnel, a possible safety issue as that may increase the potential risk of a spill or leak occurring during this function.
- As was mentioned under Temporary Storage, industry currently utilizes devices intended to prevent or show evidence of tampering. These devices can range from cable seals to dome rings. These devices, in actuality, can pose more problems for legitimate consignees than prevent access by terrorists. A cable seal may need to be cut off a car; locks need a combination or key. If consignees don't have the right tools, keys or combination to gain access to the material in the car, delays will occur, as well as damaging the device involved. None of these devices will prevent terrorists getting into a car if they are determined to do so.

5. Communication and Tracking

- Most companies already have the capability of tracking their rail cars – not just TIH cars, but all cars. Misrouted, non-moving or bad ordered cars can be identified through this monitoring and problems resolved with the railroad involved usually on a fairly quick basis.
- As there is already an existing system in place that is utilized by most companies and railroads, it would seem redundant and not at all cost-effective to scrap this system and require carriers and shippers to move to new one. Rather, the existing system should be supplemented, where possible, by new technology, while maintaining flexibility to allow choice in what technology to use.
- As mentioned previously, once a car is tendered to a railroad, it's pretty much out of shipper control. Requiring shippers to continuously monitor TIH movements would not appear to provide any additional security benefit. If a train hijacking were to occur, it would be the railroad that would be immediately aware of the situation and dealing with the issue. The shipper would be just along for the ride, so to speak.

- GPS tracking and other means of tracking technology may provide additional security benefits, but they also pose additional security and safety concerns. Like cell phones, there is a concern that a GPS could be used to remotely trigger an explosive device once it reaches a certain latitude and longitude; self-contained tracking devices on rail cars have been mistakenly identified as improvised explosive devices when received by consignees. Before requiring the use of one or another, the possible benefits should be weighed against any potential safety/security concerns that may be increased through their use.

Rhodia appreciates the opportunity to comment on this notice; should you have any questions or require additional information, please feel free to contact me at 609-860-4085 or at the e-mail address listed below.

Regards,

A handwritten signature in black ink that reads "Donna Edminster". The signature is written in a cursive, flowing style.

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