American Petroleum Institute

1220 L Street, Northwest
Washington, DC 20005-4070
(202) 682-8482
(202) 682-8051 fax
gordonc@api.org

Cindy L. Gordon
Downstream
Senior Associate

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Ms. Helen Engrum
U.S. Department of Transportation
Office of Hazardous Materials Standards
Research and Special Programs Administration
400 Seventh Street, S.W., Room 8422
Washington, DC 20590-0001

RE: Docket No. RSPA-03-15327 (HM-206B)
Hazardous Materials: Changes to the Hazard Communication Requirements, Including Revision of Design of Labels and Placards for Materials Poisonous by Inhalation

Dear Ms. Engrum:

The American Petroleum Institute (API) represents more than 400 member companies in all aspects of the petroleum industry. API members own petroleum terminals and truck and rail fleets for the distribution of asphalt, liquefied petroleum gases, gasoline, diesel fuel, heating oil, aviation (or jet) fuels, kerosene and crude oil. API has a continuing interest in the safe transportation of petroleum products and our members appreciate the opportunity to offer comments to the referenced rulemaking titled, "Hazardous Materials: Changes to the Hazard Communication Requirements, Including Revision of Design of Labels and Placards for Materials Poisonous by Inhalation".

While API encourages RSPA to revisit hazardous materials regulations in an effort to improve hazardous materials transportation safety, we feel that one of the proposed changes in this notice may have a much more significant impact than initially realized by RSPA. The proposed requirement to mark "NON-ODORIZED" in association with the proper shipping name on tank cars transporting liquefied petroleum gas (LPG) is likely to compromise safety and cause logistical operational problems – resulting in more than a "minimal" cost impact. If any aspect of this proposed requirement is finalized, we urge RSPA to exempt tank cars from compliance with this provision.

This regulation would significantly impact the LPG shipping process. It would be impractical to dedicate tank cars to non-odorized service and odorized service due to storage space limitations, the fluctuating nature of LPG product supply streams, and the transportation operations of LPG via rail. According to the National LP-Gas Association and one LPG carrier, RSPA estimates

"that non-odorized LPG is transported in fewer than 600 tank cars." API believes this grossly underestimates the quantity of tank cars transporting LPG in the U.S, or that the estimate may be only for tank cars transporting commercial grade propane. One member conducted an internal study in 2002 and found that approximately 24,000 cars transport LPG's of all types throughout North America (including Canada and Mexico). We believe that a significant percentage of these cars may be in use in non-odorized service (including non-odorized propane, butane, and other C3 and C4 isomers) at any given time.

RSPA also indicates that "commenters also stated that less than 1 percent of the LPG transported by motor vehicle is non-odorized and approximately 94% of LPG is transported by motor vehicle." This 1% estimate may be accurate for trucks transporting LPG, but this is because it is very rare when a truck would transport nonodorized LPG. Additionally, we expect that the 94% estimate is based on deliveries used for residential or commercial heating supplies. Rail cars do not deliver product to homes. We believe that these estimates exclude tank cars in business-to-business operations and those used for storage purposes – which are the primary purposes of LPG tank cars, often in LPG's nonodorized form.

Logistics

Unlike cargo tanks, tank cars are not dedicated to a certain product service. Trucks make deliveries directly to customers and the LPG is required to be odorized when going to the consumer. Rail cars can be used for storage and/or for transfer from facility to facility or business to business. In these situations, the LPG is being transported but not in its odorized form. The odor is added at the terminal when the LPG is shipped for delivery to the consumer. It is not odorized initially because some end users require a nonodorized product (e.g., chemical feedstock). Additionally, contamination could occur and product quality could be compromised if odorized during storage.

The logistics of tracking these cars and scheduling the stenciling will be onerous. There will be the additional burden of inspecting the cars to make sure that they are properly stenciled. There is an increased potential for creating errors and inconsistencies between the bills of lading, the markings and the placards.

Safety

API has safety concerns with the proposed stenciling requirements. The commodity name is stenciled on the tank cars at a height between 6 and 8 feet. The re-marking of the cars adds a danger to the personnel who are climbing up and down ladders to re-stencil hundreds or thousands of cars every year. One API member estimated the impact of this requirement for its major refineries and determined that these stenciling changes would be required approximately 5,800 times per year. By this estimate, personnel will be at increased risk of injury while they are up on 6 to 8 foot ladders stenciling tank cars in all kinds of weather conditions.

LPG tank cars are already placarded and the commodity name is stenciled on the cars. Shipping and hazard information are available on the shipping paper. Emergency responders are fully aware of the hazards of this material and proper emergency response procedures. In addition, the North American Emergency Guidebook Guide, number 115, directs the responder to "Stay Upwind" when they see a spill to avoid inhalation of potentially harmful chemicals. If following these procedures, the responders would not be able to smell the odorant in any case. RSPA has established a careful set of regulations to best ensure the safe transportation of hazardous

materials. In an emergency response scenario, the responders should not be relying on their sense of smell to determine proper response protocol.

Cost

Using the member's estimate from above, the cost of the stenciling will be approximately $80 per car. It will cost $30.00 per car for the set of "NON-ODORIZED" stencils and another $47 per car to install the stencils (1 hour @ $47 per hour for both sides). With 5,800 re-stencilings each year, it will cost one company alone around $464,000 annually to comply with this proposed requirement.

There may be additional costs incurred if there is not enough space to add "NON-ODORIZED". In this case the "Liquefied Petroleum Gas" stencil would need to be removed and re-stenciled. Also, some existing Liquefied Petroleum Gas stencils are much too high to reach with a standard 6-foot ladder.

This regulation would be extremely onerous and a logistical nightmare.

API questions how transportation safety would really be improved by adding the "NON-ODORIZED" mark? We believe the existing hazardous materials regulations, specifically the emergency response provisions, are adequately designed to promote the safe transportation of LPG. We see only more hazards, confusion and unnecessary costs associated with this proposed requirement.

API recommends that RSPA reconsider the safety impact (e.g., personnel safety risks associated with re-stenciling) and undetermined safety benefits of the proposed nonodorized stencil provision. We urge RSPA against finalizing this requirement. At a minimum, it should not be applicable to tank cars.

If you have questions on any aspect of our comments or would like further explanations, please feel free to contact me at (202) 682-8482.

Sincerely,

Cindy Gordon

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