CICI | Chemical Industry Council of Illinois

November 7, 2002

Dockets Management System
U.S. Department of Transportation
Room PL 401
400 Seventh Street, SW
Washington, D.C. 20590-0001

Re: Docket Number FMCSA-02-11650 (HM-232A)

Dear Sir or Madam:

Set forth on the following pages are the comments of the Chemical Industry Council of Illinois ("CICI") regarding the comment request on the feasibility of specific security enhancements and the potential costs and benefits of deploying such enhancements.

The Chemical Industry Council of Illinois is a not-for-profit, statewide association, which represents 181 corporations, over one hundred of which are chemical firms who manufacture, blend, distribute and sell chemicals. The chemical industry in the state of Illinois ranks third in the United States in chemical exports, fourth in value of chemical shipments, and maintains more than 60,300 employees. For this reason, CICI has a significant interest in any proposed rulemaking dealing with transportation security requirements.

Many of CICI's members rely on highway transport as their main means of shipping their products and several of CICI members are shippers and transporters that support the chemical industry.

Scope of Commodities:

CICI members believe it will be difficult to fully encompass all chemical commodities that could potentially be considered "dangerous". Hazardous materials such as explosives, bulk flammables and corrosives are obviously "dangerous". These materials are an 'immediate' potential threat in that they can be used to make chemical weapons; however, this listing of chemicals does not encompass the entire scope of hazardous materials. CICI members believe that instead of listing chemicals by classes, there should be a specific chemical list, similar to the list of substances that are currently regulated under the Chemical Weapons Convention.

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Costs:

The costs associated with the identified security enhancements can be prohibitive. These costs will not just be borne by shippers of the regulated materials, but will be passed down to the shippers of non-regulated (but DOT hazardous) materials. Even non-DOT-hazardous materials shippers may incur costs associated with the enhanced security measures placed on the hazardous material-carrying vehicles.

Pre-notification:

Pre-notification is predicated on the existence of an extensive communication network and consistency of that network throughout the transportation industry. Not all companies, especially smaller companies, have access to such networks. Another important factor contributing to the effectiveness of pre-notification is advance notice or planning of shipments. Especially in the trucking business today, an overwhelming majority of hazardous material shipments are classified as 'just-in-time'. Many of the shipments are ordered by customers for 'same-day' pickup and sometimes 'same-day' delivery. With little or no advance notice, it will be very difficult to notify the appropriate authorities of an impending shipment traveling through their area. Another element of pre-notification can be specific routing of shipments to avoid heavily populated areas. This often results in increased mileage and associated costs and safety risks when traveling on smaller, less safe roadways, in comparison to interstates. Weather conditions will also have a large impact on what route will be used and when it will be used. CICI member companies may have to alter their shipments to not only accommodate customers but also to accommodate the changing weather conditions. Additionally, there is the matter of road construction and accidents. Many of CICI member's deliveries are on a tight time schedule and their drivers may have to alter their routes to ensure that the shipments arrive on time; thus avoiding construction or accident traffic. Should the driver have to change routes, this would require the driver to stop and notify state and local authorities of the route change. Most of our member companies do not have enough staff and resources to continuously update state and local authorities of route changes. This portion of the identified security enhancements would impose a large financial burden on CICI member companies.

Escorts:

The biggest deterrent with escorts is, by far, cost. For example, who incurs the cost of providing escorts for hundreds of thousands of interstate shipments? Does this responsibility lie with the shipper, the customer, the carrier or some combination thereof? There are also operational considerations with escorts with over the road shipments such as: When a truck driver needs to take his eight-hour break to sleep where can he/she do that? The driver can sleep in the truck, but where does the escort sleep? Should the escort be allowed to sleep while the driver is sleeping or should he/she be watching the tractor-trailer? Or, should there be two escorts for over-the-road shipments? Who pays the escorts medical bills? Are the escorts going to be considered employees of the shipper, the carrier, or is the escort going to be paid by both companies? How does this person get back to their home state once the delivery has been made? Who is responsible for the background checks on these escorts? Does the escort ride in the truck with the driver or does the escort have a separate vehicle to follow the truck? Who pays for this

extra vehicle and the vehicle insurance? Won't this draw more suspicion to the truck hauling hazardous materials? Instead of blending in with the other trucks it will be easier to identify the hazardous materials hauler by the presence of an escort vehicle. Not all transportation companies haul hazardous materials exclusively, so what does the escort do when the company is delivering a hazardous materials shipment but not picking one up?

Operational Measures:

The example used by DOT is employment of multiple drivers to eliminate lengthy stops en route. This is definitely not practical based on increased costs. It is doubtful that a shipper would be willing to incur additional costs for the additional driver. Most of the overhead cost of transportation companies goes to salaries of the drivers. By requiring a second driver to travel with the vehicle, the cost to the transporter can be prohibitive and can put some companies out of business.

Vehicle Tracking:

There seems to be relatively sufficient technology for vehicle tracking already in use in the transportation industry including pagers, cell phones, GPS systems, and internet-based tracking. Satellite tracking is probably the most reliable, but obviously the most expensive. The cost concerns here are greater for smaller companies with smaller budgets. Increased costs for satellite-tracking systems not only include the software and hardware, but operational changes within the company. To truly be diligent in vehicle tracking, companies may have to consider operations personnel on duty 24 hours a day with associated increased costs. Even though such technology has advanced, it does not always work effectively. Devices such as cell phones have range limits and GPS systems are not always accurate. Due to the presence of cloud cover, rocky surfaces, mountain ranges, or man-made structures, satellite or radio signals may not be able to accurately track a vehicle. Is it wise for a company to spend the money on technology that cannot always locate the vehicle? Further, should the vehicle be out of satellite range, does the company notify local authorities immediately and hope that it is not a false alarm due to a flaw in the tracking devise? Lastly, tracking a vehicle will not prevent the vehicle being stolen or tampered with and will not ensure a driver's safety?

Anti-Theft Devices:

These types of devices could definitely be beneficial. The only concern is the effectiveness of an anti-theft device against a highly motivated and well-trained thief/terrorist. If the person is trained to highjack a truck, they are going to get that vehicle no matter what device is installed. But let's focus on what is already available on the trucks. A combination of an adjustable trailer door lock, a steering wheel lock, a fuel lock-out, an air brake lock or a pin lock on a dropped trailer are an unbeatable combination for theft deterrence. These items are relatively affordable with a total cost of approximately $500 per vehicle. Most drivers have enough awareness of their shipments to take appropriate precautions without installing any anti-theft devices. When drivers stop to sleep they usually do so at a rest stop with other truckers in an effort to blend in. They also park the truck in a well-lit area.

Safe Havens:

There is not an extensive enough network of safe havens to physically accommodate all hazardous material shipments. There are also significant cost and liability issues associated with effective save havens. A driver's best defense is to blend in with the other trucks on the roads and especially at rest stops. Additionally, if there is only one safe haven in a state, doesn't that make a hazardous material load more vulnerable to a possible high-jacking? Who will be monitoring these safe havens? Further, safe havens can't guarantee that a hazardous materials shipment won't be tampered with. It is better to be in an area where there are a lot of other vehicles around.

In conclusion, CICI appreciates the opportunity to comment on the feasibility of the Department of Transportation's identified security enhancements.

Respectfully submitted,

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