

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 698

ESTABLISHMENT OF THE TOXIC BY INHALATION HAZARD COMMON CARRIER
TRANSPORTATION ADVISORY COMMITTEE

Decided: October 14, 2010

By notice served and published in the Federal Register on August 10, 2010 (75 Fed. Reg. 48409-10) (Notice), the Board proposed to establish the Toxic by Inhalation Hazard Common Carrier Transportation Advisory Committee (TIHCCTAC). The proposed TIHCCTAC would provide independent advice and policy suggestions to the Board on issues related to the common carrier obligation with respect to the rail transportation of toxic by inhalation hazards (TIH) and, specifically, outline what is a railroad's reasonable response to a shipper's request that it transport TIH cargo. In the Notice, the Board sought comments from interested persons on the proposed TIHCCTAC structure by September 24, 2010. The Board also sought nominations for the proposed 27 voting members of the TIHCCTAC to be submitted by October 25, 2010.

The comments filed in response to the Notice raise a number of complex issues,¹ including, among others, antitrust and jurisdictional matters. The comments also suggest modifications to the proposed composition and size of the TIHCCTAC. Given the nature and scope of the issues raised by the comments, the Board requires additional time to consider them. Further, while the Board considers them, it would be premature to select TIHCCTAC members. Therefore, the nomination process is suspended pending further order of the Board.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ Comments were filed by the following interested parties: the American Chemistry Council; Arkema, Inc.; the Chlorine Institute, Inc.; Chevron Phillips Chemical Company LP; the Fertilizer Institute; the National Industrial Transportation League; the American Short Line and Regional Railroad Association; the Association of American Railroads; Dow Chemical Company; E.I. du Pont de Nemours and Company; Occidental Chemical Corporation; Olin Corporation; PPG Industries, Inc.; Railway Supply Institute Inc.; and Tanner Industries, Inc.

It is ordered:

1. The process for the nomination of members to the TIHCCTAC is suspended pending further order of the Board.

2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.