



Support, Connection, Advocacy

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September 22, 2010

Surface Transportation Board
Attn: STB Ex Parte No. 698
395 E Street, S.W.
Washington, DC 20423-0001

227852

Re: STB Ex Parte No. 698 Notice of establishment of the Toxic by Inhalation Hazard Common Carrier Transportation Advisory Committee (TIHCCTAC) – proposed TIHCCTAC structure and scope.

The Railway Supply Institute (RSI) is pleased to respond to the Board's Notice of establishment of the Toxic by Inhalation Hazard Common Carrier Transportation Advisory Committee (TIHCCTAC) and request for written comments on the proposed structure and scope of TIHCCTAC.

RSI is the international trade association of suppliers to the nation's freight railroads and rail passenger systems. The RSI Committee for Tank Cars (RSI-CTC) is a standing committee of the RSI that addresses issues of importance to tank car builders and owners. The RSI-CTC represents companies that manufacture virtually all of the tank cars operated in North America, and also own, manage and full service lease over 70% of the Nation's tank car fleet. RSI-CTC membership includes American Railcar Leasing, CIT Rail, GATX Corporation, General Electric Railcar Services Corp., Trinity Industries, Inc., and Union Tank Car Company.

There is no safer way to move hazardous materials than by railroad tank car. In fact, the RSI/AAR Tank Car Safety Research project reports that over 99.996% of hazardous materials arrive at their destination without a release caused by an accident. This excellent safety record should be an important consideration in any study of railroads' common carriage duties and mitigates against any adjustments to those duties that would encourage movement of these commodities by a different mode of transportation.

It is appropriate that the Board seek the views of all parties involved in the movement of TIH by rail to make recommendations on how to balance the common carrier obligation with the risk of catastrophic liability. RSI believes that any recommendations to limit liability (whether for passenger or freight) must cover all parties involved in an incident, and not just the railroad involved. Otherwise, liability exposure will cascade down the supply chain adversely impacting companies that have no control over the events leading up to and including the accident or event. As such, companies who might be interested in entering the market or investing in safer technology cannot or will not do so because of the liability risks. Industry wide interest will continue to foster safety and security improvements; a result that would be far less likely from a liability cap initiative designed for one group of industry participants.

As for the committee's membership allocation, the RSI-CTC strongly requests that the Board provide one representative from tank car manufacturers and one representative from tank car owners. The Board is proposing a committee structure that gives multiple votes to the railroads, shippers, insurance companies and academia. It seems reasonable that the tank car manufacturers and tank car owners, which could have a significant financial stake in the outcome of the Advisory Board's deliberations, should have two voting seats on the TIHCCTAC to articulate their respective concerns.

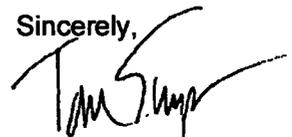
The RSI-CTC agrees that:

1. The responsibilities of the tank car manufacturers and the tank car owners are different and are clearly delineated in the Association of American Railroads (AAR) standards and under Title 49 CFR. Tank car manufacturers must comply with those standards and regulations that pertain to the design and manufacturing process. A tank car manufacturer certifies that the tank car complies with these when the certificate of construction is generated at the time the tank car is built. A tank car manufacturer's downstream liability centers on providing a car that meets the regulations and is suitable for the intended service.
2. A tank car owner is responsible for adequately maintaining the car and providing all of the inspections required by the regulations. If repairs are required due to wear and tear or car damage, it is the tank car owner's responsibility to assure the tank car is repaired to industry requirements. It is the tank car owner's responsibility to assure the tank car continues to be suitable for the intended service.

Tank car manufacturers and tank car owners have separate economic interests in the transport of TIH and as such RSI-CTC requests that the TIHCCTAC be expanded to provide for a representative from each of those groups.

The RSI-CTC appreciates this opportunity to provide the Board input on these important issues and respectfully ask that we receive feedback on our request prior to the Monday, October 25, 2010 nomination deadline.

Sincerely,



Tom Simpson
Executive Director