

Freddie N. Simpson
President

Perry K. Geller, Sr.
Secretary-Treasurer

Brotherhood of Maintenance of Way Employes

20300 Civic Center Drive, Suite 320
Southfield, MI. 48076

September 29, 2004
(Electronic submission)

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

Re: Docket No. RSPA-2004-18730

Dear Sir or Madam:

The Brotherhood of Maintenance of Way Employes (BMWE), a rail labor organization representing 50,000 railroad workers who build, maintain, inspect, and repair railroad track and related structures throughout North America, is pleased to provide these comments to the above referenced docket. BMWE has chosen to comment only on certain limited aspects of the "Notice and Request for Comments," however, such should not be construed as BMWE acquiescence to any other proposals or alternatives outlined in the Notice and Request for Comments.

Security Requirements

BMWE believes that one of the keys to railroad security and the protection of TIH shipments from malicious intent is to strengthen security in and around yards and facilities where such materials in rail cars are stationary and in "storage incidental to movement." It is these stationary "incidental to movement" TIH shipments that appear most vulnerable to malicious intent. Privacy fencing, restricted access by outside non-railroad entities, improved safety and security training for rail employees, and perimeter security and patrols are among the more feasible solutions to improving security in rail yards and other "temporary storage" facilities. Shielding TIH shipments on tracks within yards may also enhance rail security, i.e., placing TIH cars on tracks not readily visible from areas of public access.

Wherever possible, such TIH shipments should also be prohibited from being placed in stationary "incidental to movement" storage in high-population areas. This only makes sense given that the stated goal of terror organizations is to cause mass casualties. Prohibiting stationary "incidental to movement" storage in high-population areas would greatly reduce the incentive to attack such shipments simply because the impact of such an attack occurring in a remotely populated area would not achieve the terrorist's stated goal of causing mass casualties.

Also, to prevent targeting of rail shipments in “high-risk” metropolitan areas, the rerouting by rail of TIH and perhaps other highly dangerous shipments to rail lines which circumvent “high-risk” metropolitan areas should be further considered where other viable rail routing alternatives exist.

BMWE is also concerned that the railroad industry has not adequately trained and integrated its employees into the security plans currently required. Railroad employees remain largely in the dark regarding the carriers’ security plans and, while we can appreciate that certain security information must remain confidential, we believe that employee hazmat and security training is critically lacking and must be expanded and improved. Rail employees have both a right and a responsibility to know their role and limitations within the employers’ overall security plans, and this can only be achieved through inclusive and comprehensive training of rail employees. Therefore, BMWE supports comprehensive security and hazmat training for all railroad employees, including on-board personnel and those who work in rail yards and along the railroad right-of-way. Also, to improve the effectiveness, implementation, and scope of rail security plans, BMWE would support a requirement that security plans for TIH and other dangerous shipments by rail be submitted for review and approval to insure that the plans are adequate for the location(s) implemented, and that all rail employees are fully trained and knowledgeable regarding their roles and responsibilities in such security plans.

Placarding

BMWE does not support the removal of placards and markings as a security measure. Simply removing placards and markings from TIH tank cars will in itself be an identifier for those with malicious intent. These shipments will simply be identified by the omission of placards and markings. In addition, it will not be difficult for a person with malicious intent to figure out that pressurized, non-placarded tank cars parked at a water treatment facility are likely to contain chlorine. Therefore, BMWE does not view the removal of placards as a viable security measure. Rather, we view the proposal for removing placards and markings as a detriment to safety. As stated in the Federal Register, August 16, 2004:

“Placards provide initial warning information in the event of an emergency or accident involving a shipment of hazardous materials. Placards provide first-on-scene emergency responders with the information necessary to quickly assess and accident situation from a distance, reducing the possibility of someone approaching the accident site without wearing protective clothing or equipment. Firefighters, police, and other responders can thus avoid unnecessary exposure to dangerous, perhaps life-threatening material. In addition, placards provide emergency response personnel with the information necessary to determine whether there is a need to evacuate persons in the vicinity of an accident.... In addition to providing critical information to emergency response personnel, placards identify hazardous shipments for transport workers and assure that they are handled safely and efficiently throughout the transportation process.” (Federal Register, August 16, 2004, Volume 69, Number 157, page 50990)

According to data published by the Federal Railroad Administration, there were 2,738 reportable train accidents in 2002. Among these reportable train accidents, 31 consists were reported to

have released hazardous materials from 56 releasing rail cars. (Railroad Safety Statistics, 2002 FRA Annual Report, Table 1-1) In addition to the reported 56 cars releasing hazardous materials in 2002, there were also 972 hazmat cars that sustained damage in train accidents. This data indicates that in 2002 there were an average of 7.5 reportable train accidents per day and an average of 2.58 consists releasing hazardous materials per month. Therefore, BMW strongly opposes the removal of placards and markings because of the adverse impact such action could have on the health and safety of railroad workers, first responders, and communities along the railroad right-of-way. Also, due to the fact that access to shipping papers is not universal and that there is often a lag time before rail employees and emergency responders actually have physical access to shipping papers during a railroad emergency, BMW can not support using shipping documents as a sole means of identifying and assessing risk.

Tank Car Integrity

BMW would support strengthening the requirements for tank car integrity, including measures to prevent tampering with valves and other accessories. In addition, there have been a number of high-profile train accidents, including the Canadian Pacific Railway derailment of train 292-16, near Minot, ND on January 18, 2002, where improvements in tank car integrity may have mitigated or even prevented releases of hazardous materials. Thus, revisions to the basic designs or materials of construction that would enable a tank car to withstand a terrorist attack would also aid in prevention of releases in non-terror related rail accidents.

Communications and Tracking

BMW supports the utilization of tracking and other types of communications systems to enable carriers to monitor tank car shipments while en route to their destination. However, we can not support the use of radio frequency identification (RFID) tags as a substitute to placarding in that most rail workers and emergency responders will not have ready access to “portable hand-held readers” when involved in, or responding to, a train accident or derailment.

In closing, BMW appreciates this opportunity to provide these comments and views to the Research and Special Programs Administration, the Department of Homeland Security, and the Transportation Security Administration and look forward to working with these agencies and our industry partners to improve the security and safety of hazardous materials transportation.

Respectfully,

Freddie N. Simpson (signed)

President