



The Dow Chemical Company

April 17, 2008

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Surface Transportation Board
Attn: STB Ex Parte No. 677
395 E Street, SW
Washington, DC 20423-0001

**Public Hearing regarding the
Common Carrier Obligation of the Railroads
April 24-25, 2008**

**Comments of Cindy Elliott
Global Supply Chain Sourcing Director
The Dow Chemical Company**

Introduction

Thank you for the opportunity to present comments regarding Dow's view of the rail roads' Common Carrier Obligation. My name is Cindy Elliott, and I'm the Global Supply Chain Sourcing Director for Dow, responsible for ensuring that we have the most effective logistics infrastructure in place to serve our businesses and customers globally. Dow is a diversified chemical company with \$54 billion dollars in sales annually and 46,000 employees. We deliver a broad range of products across virtually every industry, providing functionality for 90% of the goods people use every day.

We believe the common carrier obligation of the railroads to serve the public need is clear. Since the earliest days of the industry, railroads have been regarded as public highways organized for the public interest and to serve the public good and convenience. It is inconsistent with the common carrier obligation to consider only the needs of the railroads, while ignoring the needs of shippers and the nation's economy and public welfare.

Dow supports a constructive approach that arrives at mutually beneficial solutions and shared responsibility to support US industry competitiveness, safety and security. We are very concerned about the railroad's aggressive efforts to stop or avoid transportation of selective chemical products.

Why is this issue so important to us?

It's important because Dow's investment in North American Rail Transportation is very significant. We manage a 26,000 rail car fleet and process more than 130,000 shipments per year, half of which are liquid chemicals.

Our first priority in managing our supply chain is to do what is within Dow's control to create a safe and secure environment in which to work, transport goods and operate – for our employees and the communities we serve. We have a long track record of innovation and consistent investment to

improve our safety performance with respect to the transportation of chemicals. To that point, Dow has worked closely with our logistics service providers across all modes of transportation to achieve an incident-free rate of 99.97 percent.

Our safety efforts have been extensively recognized by the rail roads. In 2007 alone, Dow received awards from Norfolk Southern, CSX, Canadian Pacific, Canadian National and BNSF highlighting our leadership and performance in safety practices.

Since 9/11, we have bolstered our community outreach as well as partnered with government agencies like the Departments of Transportation and Homeland Security to develop and implement joint safety and security programs. Those efforts are essential to the long-term sustainability of US industry, allowing manufacturers to produce and ship vital products and at the same time improve the safety of our neighboring communities.

Rail and chemical industry initiatives are further improving safety and security.

In 2006, Dow published a comprehensive ten year strategy for Supply Chain Sustainability that is based on the premise of eliminating incidents. This program is aligned around our "Vision of Zero" – a company-wide, total safety commitment aimed at: zero accidents, zero injuries and zero excuses. Four components of the strategy include:

- First, redesigning our supply chain to reduce the number of shipments and container miles for specific products to enable shorter routes and product swaps. We have set an aggressive goal – regardless of mode – to reduce the number of hazardous shipments and container miles in half.
- Second, improving the visibility of shipments through implementation of GPS and sensor technologies, so that product movement can be tracked anywhere, anytime.
- Third, redesigning our shipping containers to prevent tampering and to reduce the potential for chemical releases due to accidents or security incidents. For example, Dow has been an important participant in the R&D effort for the "next generation" rail tank car which provides a step change in safety performance – specifically a 5-10 fold improvement.
- Fourth, enhancing our collaboration with carriers and local communities to improve emergency preparedness and response should a chemical release occur. We are a founding member of TRANSCAER – a proactive and collaborative effort between the chemical industry, railroads and communities to appropriately respond to emergency situations. While we've been conducting outreach via TRANSCAER for more than 20 years, since 2007, we have stepped up our efforts specifically along rail transportation routes – in fact, as we speak, Dow is involved in a 10-city, tour on a route that starts in Louisiana and ends in Chicago.

Dow takes very seriously our obligation to responsibly manufacture and move our products and we believe public-private and cross-industry partnerships are vital to our nation's security. Just as Dow manages its risks as a producer and/or user of hazardous materials, the railroad industry should focus its efforts on doing the same, rather than trying to avoid its common carrier obligation to transport these materials altogether.

Does it cost more money to focus on the safety and security of transporting our products?
Yes – and at times it appears to have unreasonable cost disadvantages – in fact, it is literally 3-5 times more expensive for us to ship TIH materials on a per car basis than other chemical products.

Some Class I railroads have claimed that they are now pricing their transportation of TIH materials to discourage longer distance movements in favor of shorter distances. However, that has not been Dow's experience. In one recent example we worked collaboratively with our industry partners to reduce the number of miles we were shipping chlorine by 2/3 (from 1400 to 450 miles). In return for this successful supply chain redesign, we were penalized with an 88% rail rate increase – the equivalent of a \$1MM impact. The price tag for reducing risk was hardly motivating. It is becoming clear to us that the railroads are more interested in using price to eliminate these movements all together than creatively exploring options where everyone wins.

This is just one example to illustrate the point – but there are many. In fact, despite our efforts...since 2006, Dow has faced significant rate increases of 100 percent or more for TIH products – and, based on the way the railroads have structured future track agreements, we continue to assume the full burden of infrastructure costs required to move these materials.

Rail is the most effective, lowest risk way to move chemical products.

A scenario that involves the loss of rail service due to the Common Carrier Obligation disappearing would result in 4 times more chemical shipments if we had to move them by truck. The increased number of shipments would have a cascading risk effect in both transportation hazards and in on-site loading/unloading operations. Furthermore, the new truck volume would compound practical concerns around highway congestion, accident prevention and lack of available specialized tank truck and driver capacity.

Imagine for a moment, if just Dow's chemical rail shipments were to move by truck. If you consider our railcar volumes – and convert them to tank trucks, that translates to an additional quarter of a million tank trucks per year. This represents a 15% increase in the bulk tank truck market sector and there are simply not enough trucks on the market to absorb this demand – at any price. Bottom-line, converting our chemical rail shipments to truck is not physically possible and efforts to do so would bring US manufacturing to a screeching halt.

The safety and security of chemical shipments by rail is a shared responsibility of the industry the railroad and the government.

Dow urges the STB to protect the Common Carrier Obligation from being eroded by the railroads, because that obligation is vital to the public interest. As common carriers, the railroads enjoy numerous privileges in addition to their responsibilities. We support many of the special commercial protections the railroads have enjoyed over the years, but we also believe that in return for these privileges they are obligated to support our business and our customers' business. The railroads operate in a highly concentrated industry with very high barriers to entry – this leaves companies like Dow with no reasonable competitive alternatives if the railroads are unwilling to serve us.

As a shipper, Dow has been challenged with extraordinary rate increases on TIH products, taken steps to redesign our supply chains, asked for significant concessions from customers, participated in community outreach and worked with the government to enhance safety, security and emergency response.

The Common Carrier Obligation is an obligation that requires the railroads to transport material as long as the request is reasonable. We believe the chemical industry in general – and Dow specifically – has been very reasonable. We have lived up to our obligation and in fact stepped up our investments and we believe that the railroads must do the same.

Thank you for the opportunity to comment and provide our input on this important issue.