



Testimony of  
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of the  
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*"Transit and Rail Security"*

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Chairmen and members of the two subcommittees, thank you for calling today's hearing on a subject of great importance both to the chemistry sector I represent and the nation at large. And thank you too for this opportunity to share our sector's views with you.

I am Marty Durbin, Managing Director of Federal Affairs with the American Chemistry Council ("ACC"). ACC is the trade association representing the companies that make the chemicals that make modern life possible. Today, I will discuss the importance of safely and securely shipping chemicals by rail, including hazardous materials, and how we can work together to continuously improve our current system.

Products supplied by the chemistry sector are essential to manufacturing agriculture, energy, transportation, technology, communications, health, defense, and virtually every aspect of our lives. Chemicals are also essential for thousands of products that improve the quality of our lives including solar panels, bullet resistant material, airbags for automobiles, sunscreen, pharmaceuticals, and disinfectants.

Our \$635 billion dollar industry directly employs nearly one million people in all 50 states, supports an additional four million jobs around the country and accounts for 10 percent of all U.S. merchandise exports. In fact, more than 96% of all manufactured goods are directly touched by chemistry. That's why the Department of Homeland Security recognizes our industry as critical infrastructure, a national asset that warrants protection. The simplistic view that chemicals are unnecessary risks that need to be eliminated is thankfully being rejected by thoughtful policymakers.

As Secretary Chertoff points out, while a vast majority of chemical shipments do not present a security risk to the nation, we must focus on protecting the small percentage that do.

Today, under the U.S. Department of Transportation, we have a very safe freight rail system. Should rail transportation be disrupted, shippers would have to consider

alternative modes of transportation such as additional trucks on already congested highways and resulting in added air pollution. It is estimated that the movement of one 30,000-gallon rail tank car is equivalent to six tanker trucks. More moving pieces would require the need for added safety and security measures, while creating environmental challenges.

Congress many years ago wisely established a comprehensive, national regulatory system for hazardous material transportation, which is administered by the DOT. The goal of that system is to ensure that chemicals and other hazardous materials are delivered safely, securely and reliably. The goal is not to prevent their movement.

While DHS has an important role in transportation security, it's critical that DHS rely on the unmatched hazmat regulatory experience at DOT.

Today, I wish to deliver several key messages, which reflect long-standing and well-documented core values for ACC members. For the chemical sector, safety and security are the starting point *and* the finish line. That's where we begin and where we want to wind up in our manufacturing operations, our transportation systems, our entire value chain. This important commitment is well-documented, and as I will note, we "walk the walk" on safety and security. We do so through our industry leading Responsible Care<sup>®</sup> management system that includes both safety and security, and through innovative programs that are addressing such critical issues as chemical tank car design and the real-time tracking of chemical shipments.

We are neither complacent nor willing to stand still on transportation security. We are working closely with both DOT and DHS on the development of new rail security regulations and I will discuss several ongoing security programs, including joint efforts with our rail partners, that demonstrate we are "walking the walk" to continually improve rail safety and security.

We will continue to be a valued resource and partner to our carriers and to government at every level. I will share with you some of the activities of our CHEMTREC® 24/7 emergency hotline and the work we do with our rail partners through TRANSCAER®, an education and outreach program for emergency responders.

### **ACC's Commitment to Safety and Security**

Safety and security – for our communities, workforce, facilities and products is a longstanding and deeply felt commitment for the members of the ACC. According to the U.S. Department of Labor, our industry is the safest manufacturing sector in the U.S. Stephen Flynn, former homeland security advisor for the U.S. Commission on National Security and retired Coast Guard officer, acknowledged our safety record in a recent interview when he said “...the chemical industry has a very good track record on safety and surprisingly, given what they work with on any given day, very few accidents given the scale of what we use.”(NPR's *To the Point*, 22 Feb 07)

Security has always been a priority for our members, going back well before the events of 9/11. Following the terror attacks, we did not wait for government action but instead developed the Responsible Care® Security Code which became mandatory in 2002 and covers facilities, cyber and information security and transportation.

The Code explicitly requires every ACC member facility to assess and prioritize its vulnerabilities, implement security measures, and verify implementation through third-parties such as local emergency responders. Our members already have invested more than \$3.5 billion in this effort, and we will continue to invest in security because we understand the stakes and our responsibilities.

Over the last four years, we helped lead the charge for effective federal legislation to ensure that all chemical facilities meet crucial security standards. The law that Congress passed last October authorized the Department of Homeland Security to issue new regulations, and we have participated in that rulemaking process. DHS will announce its final rule on April 4, and we hope many of the building blocks developed under the Responsible Care Security Code will be reflected in that rulemaking. This would not be

the first time our Code was incorporated into legislative or regulatory language. For example, the Code was recognized by the U.S. Coast Guard as an Alternative Security Plan for complying with the highly-acclaimed Maritime Transportation Security Act.

Under the Code, ACC and its members work closely with the marine, trucking and rail industries, as well as the appropriate federal, state and local officials, to develop more robust security operations. Our transportation efforts include:

- Implementing new protocols and procedures
- Enhancing inspections
- Increasing surveillance along roads, waterways and rail lines
- Screening employees
- Restricting access to facilities
- Conducting security audits
- Using tamper resistant seals, packaging and shipping devices

Naturally, we protect the distribution process within our facilities where rail cars are both loaded and unloaded, and we continue to work with our rail partners to enhance the security of our products throughout the rail transportation system.

In fact, a GAO report in 2003 took note of industry progress, saying “The railroad and chemical industries have taken a number of steps to enhance the security of transportation of hazardous materials.”

### **Continuous Improvement**

For ACC members, continuous improvement is part of Responsible Care, and very much a part of the way we do business. It requires us to look for new ways to enhance safety and security, whether the subject is new technology or new procedures and protocols.

I am pleased to say that we are working cooperatively with the federal government, the railroads and tank car manufacturers as the FRA develops a rulemaking for a new rail tank car design. Inputs to this process will include industry efforts coordinated through the Next Generation Rail Tank Car Project and government initiatives such as the research on tank car crash forces being conducted by DOT’s Volpe National Transportation Systems Center.

Of course, walking the walk means more than supporting appropriate government initiatives. An example of a forward-looking effort is an initiative underway by The Dow Chemical Company to increase safety and security across its supply chain. Specific actions include increased outreach and training for emergency responders along hazmat routes, improved shipment visibility and new supply chain design.

#### **ACC – America’s Chemical Resource and Partner**

ACC and our member companies are proud to be both resources and partners to our communities, the railroads, local jurisdictions and the emergency response community. In the 1980s, ACC members, the railroads and other stakeholders developed TRANSCAER® (**T**ransportation **C**ommunity **A**wareness **E**mergency **R**esponse), a voluntary national outreach effort that helps communities prepare for and respond to possible hazardous material transportation incidents.

TRANSCAER "sponsor" organizations provide monetary resources and in-kind contributions. TRANSCAER Sponsors and Partners include: American Chemistry Council, Association of American Railroads, Chemical Educational Foundation, CHEMTREC®, National Tank Truck Carriers, Inc. and The Chlorine Institute. The U.S. Department of Energy, Environmental Management Office of Transportation is a TRANSCAER Partner. In 2005, TRANSCAER held over 200 events across the nation reaching over 8,500 attendees.

Emergency response is one of the most critical components of hazardous material transportation safety and security. Swift and appropriate response to accidents or other incidents will save lives not only of the public but of the responders themselves.

ACC's CHEMTREC (**C**hemical **T**ransportation **E**mergency **C**enter) program, now in its 35th year, provides a successful blueprint for sharing expertise and experience with today's emergency responders. Located at our headquarters in Arlington, CHEMTREC is recognized by DOT and other federal agencies as a valuable source of information and expert counsel regarding hazardous materials incidents. When a chemical incident takes place, responders contact CHEMTREC immediately to determine the best way to handle a wide range of hazardous substances including radioactive materials, infectious substances, biohazards, and hazardous waste. Our state-of-the-art emergency center is a 24/7 reminder of the commitment we make to enhance the safety of every hazardous material shipment, and the people whom it may affect.

I am pleased to report that CHEMTREC has been a behind-the-scenes partner to a variety of government organizations and programs including NASA and the U.S. Army. When chemical spills, leaks or other incidents are involved, CHEMTREC usually gets the call and links the responders with the experts who can help them contain, control and clean-up.

As a further improvement to CHEMTREC's capabilities, CSX Transportation and CHEMTREC have launched a program designed to provide even more information to emergency responders during a rail-related hazardous materials incident. The program provides CHEMTREC's staff of Emergency Service Specialists with direct access to CSXT's Network Operations Workstation (NOW). NOW is a secure system that uses a combination of technologies to graphically identify the location of a train anywhere on CSXT's 21,000- mile network. These tools provide CHEMTREC's staff with a web-based, visual display of the train and its location, the location of rail cars within the train, and the contents of each rail car.

I want to personally invite the members of the subcommittees – and staff – to tour our CHEMTREC Emergency Center in Rosslyn to see how we work with local responders to help protect your communities. I will follow up with the staff director to determine an appropriate time for such a tour and discussion.

## **Summary**

The nation needs a safe, secure and reliable system of hazardous material rail transportation, governed by uniform, national rules. That is the system we have today, and the challenge – for both the private and public sectors – is to ensure that this system continuously improves.

We look forward to working closely with the subcommittees, the Congress, the Departments of Transportation and Homeland Security and the other stakeholders to make this happen.

Thank you and I would be glad to answer any questions.