

**Statement of**

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**Before the**

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Infrastructure Subcommittee on Railroads, Pipelines and Hazardous  
Materials**

**"Examining Issues for Hazardous Materials Reauthorization"**

**April 2, 2014**

Good afternoon, Chairman Denham and Ranking Member Brown. My name is Tom Schick, and I am here on behalf of the American Chemistry Council (ACC). We sincerely appreciate this opportunity to testify on the important matter of reauthorization of the Hazardous Materials Transportation Act (HMTA).

ACC represents the leading companies engaged in the business of chemistry. Our member companies apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care<sup>®</sup>, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$770 billion enterprise and a key element of the nation's economy. It is one of the nation's largest exporters, accounting for 12 percent of all U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and to defend against any threat to the nation's critical infrastructure.

I would like to underscore the important role that the products manufactured and shipped by ACC's members serve in virtually every aspect of our lives. The nation depends on our industry to produce the chemicals that are necessary for safe drinking water, life-saving medications and medical devices, a safe and plentiful food supply, energy-saving solar panels and much more.

Chemical producers rely on all transportation modes to deliver products wherever they are needed to get the job done: from water treatment plants to farms to factories. Because a number of chemical shipments involve hazardous materials, we work constantly with our transportation partners to find ways to build upon an already impressive safety record.

Through ACC's Responsible Care<sup>®</sup> initiative, our member and Partner companies are committed to continuous safety improvement in every aspect of the transportation of our products. Collectively, we have invested billions of dollars in training, technology and equipment – and we will continue to do so in the future.

ACC and its members have also worked hard to establish a strong and successful partnership with the emergency response community. For example, ACC members – working together with the railroads and other stakeholders – developed Transportation Community Awareness and Emergency Response. This TRANSCAER<sup>®</sup> program is a voluntary national training effort that helps communities prepare for and respond to possible hazardous material transportation incidents.

Emergency responders also have access to a wide range of experts through ACC's Chemical Transportation Emergency Response Center, which is known as CHEMTREC<sup>®</sup>. When an incident does take place, responders contact CHEMTREC's state-of-the-art emergency center to determine the best way to handle chemicals as well as other types of hazardous materials. CHEMTREC provides this service 24 hours a day, seven days a week. There is no cost to emergency responders, other callers, government agencies, or taxpayers.

ACC invites the members of this Subcommittee and their staff to tour our CHEMTREC emergency center in Northern Virginia, or to attend a TRANSCAER event. These are both excellent ways to observe how industry works with local responders to help protect their communities.

With regard to HMTA reauthorization, ACC believes that the Federal Government must continue to play a central role in ensuring the safe transportation of hazardous materials. In HTMA, Congress wisely established a comprehensive national regulatory system that is administered by the Department of Transportation (DOT). The goal of this system is not to prevent the movement of chemicals and other hazardous materials, but rather to ensure that they are delivered safely, securely and reliably. HMTA has worked well in making the transportation of chemicals and other hazardous materials throughout the country safe for the public, workers and emergency responders.

We understand that Congress will soon consider legislation to reauthorize HMTA. ACC and our member companies strongly support DOT's uniform national regulatory program, which ensures that training, transportation equipment, emergency preparedness, and all of the other technical aspects of hazardous materials transportation are consistent across the nation. We also support DOT's excellent work in harmonizing – to the maximum extent warranted - U.S. hazardous materials regulations with international standards that have been adopted for the transportation of dangerous goods. This harmonization not only facilitates commerce in these important products, but it also promotes safety with consistent hazard communication (placards, labels, shipping papers, etc.) and consistent procedures and equipment.

ACC is, however, concerned about two aspects of DOT's current administration of the regulatory program that Congress established under HMTA. One is loading and unloading hazardous materials, and the other relates to the "special permits" that are issued under 49 U.S. Code Section 5117.

Some years ago, in what ACC considered to be an unfortunate interpretation of its statutory authority, DOT withdrew from regulating the loading and unloading of hazardous materials. Yet DOT has also determined that, especially for bulk movements, loading and unloading are critical components of the safe transportation of such products. Subsequently a rulemaking (Docket HM-247) was initiated to take another look at this issue – although it was limited to the truck mode and was not especially well received by commenting parties. DOT recently "withdrew" that

notice of proposed rulemaking. In fact, ACC supports regulation of the loading and unloading of hazardous materials by the Federal agency with authority and expertise in this area for two important reasons:

1. Loading and unloading are fundamental to the safe transportation of hazardous materials.
2. Federal regulation provides uniformity across the country, which enhances the training of “hazmat employees” and the preparedness of emergency responders.

For those reasons, ACC would like to see the agency reestablish its regulatory position with respect to loading and unloading of hazardous materials.

Special permits allow safety-based variations from DOT's existing hazardous materials rules. Applicants for special permits come forward with proposals that can only be granted if DOT finds there to be at least an equivalent level of safety to what its regulations provide.

There has been some talk of charging “user fees” to companies that apply for special permits. ACC opposes that suggestion. Special permits are a win-win process:

- Applicants from industry and government gain operational flexibility with no loss of safety.
- DOT learns of new procedures and technologies that can later be incorporated into hazardous materials regulations on the basis of experience that has been monitored by the agency. In fact, DOT is currently engaged in rulemaking to move more special permit provisions into the Code of Federal Regulations.
- Meanwhile, other parties can learn from and apply to use existing special permits.

ACC believes that special permits are an inherent and beneficial part of the regulatory process that governs the transportation of hazardous materials. For that reason, it is appropriate maintain the special permit function without imposing user fees that would interfere with innovative safety enhancements.

In conclusion, this country depends on HMTA and our safe and reliable system for moving hazardous materials under DOT’s uniform national rules. Some improvements may be deemed appropriate, the public and private sectors can work together to ensure that this system continuously improves and remains competitive in the global marketplace.

We look forward to working closely with this Subcommittee, the Department of Transportation, and others to achieve this goal.

Thank you. I would be glad to answer any questions that you might have.