



## **HAZMAT REAUTHORIZATION: ENSURING THE SAFE, SECURE AND EFFICIENT TRANSPORTATION OF HAZARDOUS MATERIALS**

The safe, secure and efficient transportation of hazardous materials throughout our country is critical due to the toxic and inherently dangerous nature of these substances. Every day, there are 1.2 million movements of hazardous materials by rail, air, sea, waterways and highways and the volume will only increase. It is therefore imperative that current hazmat laws are strictly enforced and that Congress pass a hazmat reauthorization bill that updates rules and addresses issues that have arisen since the last reauthorization bill in 2005.

During previous attempts to rewrite hazmat laws, industry opposition against sensible reforms delayed the bill for over a decade. In particular, industry lobby groups demanded removal of Occupational Safety and Health Administration (OSHA) coverage of hazmat operations. Fortunately, Congress rejected those efforts and passed a strong bill that retained joint OSHA/Department of Transportation (DOT) jurisdiction over hazmat transportation and expanded employee training requirements. We hope new attempts to update hazmat laws are not met with the same industry stonewalling tactics.

Hazmat reauthorization must improve safety and security for the men and women who work in dangerous conditions. Specifically, we support the continuation and improvement of employee training programs that provide instruction on the identification of hazardous materials, as well as preparation for and response to hazmat incidents. While current law requires hazmat employers to provide training to appropriate employees, this training is often inadequate in content and not universally applied. For example, some in the railroad industry attempt to meet their training responsibilities by distributing a book on hazmat rules to their employees and then conducting a limited and predictable test. Clearly, direct instruction with a true opportunity for feedback is needed to ensure workers are adequately prepared for a hazmat incident. Rail workers are often the first on the scene of a rail transportation hazmat release or incident and their initial response is critical to containing the threat.

Congress must also increase funding for training programs and provide grant recipients with greater flexibility on how training funds can be used. The current Hazardous Materials Instructor Training (HMIT) grant program provides funds to labor-affiliated organizations and other entities to conduct "Train the Trainer" programs. These programs, which train hazmat instructors who in turn will train front-line hazmat employees, have been largely successful and should continue. However, the grant program should be modified to allow recipients to use grant money to defray the costs for front-line workers themselves to attend training sessions and seminars when appropriate.

Our nation's firefighters are also in need of increased and enhanced hazmat training. According to the National Fire Protection Association (NFPA), fire departments in the U.S. received almost 400,000 emergency calls related to hazardous materials in 2007. The NFPA also estimates that 38 percent of firefighters whose duties involve hazmat response lack formal training and only 29 percent of fire

departments train all personnel in hazmat response at some level. To close these gaps, Congress must increase funding for firefighter training to allow experienced training organizations to provide comprehensive training free of charge to communities across the nation. In addition, greater flexibility in current training programs should be allowed to conduct direct training, refresher training and distance learning. Finally, training grants should ensure that, at a minimum, firefighters be trained at the “operations” level. This level of training is designed to instruct firefighters on how to contain the release, keep it from spreading and prevent further exposure.

Firefighters also need additional tools to assist in the identification of hazardous materials so they can execute safe and appropriate responses. Specifically, first responders must have access to continuously updated electronic shipping information since physical shipping papers and even placards can be damaged or missing. E-shipping methods should not replace placards and physical shipping paper requirements but instead should serve as a back-up to current notification systems.

Given the fact that at any one time 40 percent of chemical hazmat is being moved by rail, it is critical that steps are taken to secure these movements. Specifically, trains containing hazardous materials must be required to maintain an operating crew of not less than one certified engineer and one certified conductor. Reducing the number of operating crew members will increase the risk for error and accidents to an unacceptable degree. Congress must also ensure that waivers to the current 30 m.p.h. speed restrictions for movement of poisonous by inhalation materials in non-signalized territory are not arbitrarily granted. Instead, these requests should be considered through administrative procedures and subject to a transparent process to ensure that safety is preserved. Rules should also be established regarding train configuration containing hazmat cars. For example, hazmat cars should not be placed close to locomotives or at the rear of the train. Finally, every tank car hauling hazardous material must be inspected by qualified and well-trained carmen who are certified by the FRA.

Public employees within Department of Public Works (DPW) and state Departments of Transportation (state DOTs) who transport hazardous materials by truck or respond to accidental or intentional releases are first-on-the-scene when response is needed. In some jurisdictions, they are considered first responders. Congress must increase funds to train DPW and state DOT road employees to ensure that they receive training appropriate to their duties, such as First Responder Awareness Level training or any other level of training needed as required by the Hazardous Waste Operations and Emergency Response Standard. The First Responder Awareness level of training requires workers to understand what hazardous substances are and the risks associated with them, to appreciate the potential outcomes associated with hazmat releases, to identify and recognize the presence of hazardous substances, to understand their role as a first responder, to recognize the need for additional resources and make appropriate notifications.

In the aviation sector, the transportation of lithium batteries, a hazardous material, is a matter of serious concern. Lithium is flammable and a shorted lithium battery on board an aircraft can have devastating results. In 2005, a DOT rule was implemented that prohibited the bulk shipment of lithium metal batteries in the cargo hold of passenger aircraft. This prohibition should be extended to cargo aircraft as well. In addition, rules should be adopted ensuring crew member notification and better labeling of bulk shipments of lithium ion batteries used in cell phones and laptops. These positions are consistent with current National Transportation Safety Board recommendations.

The reauthorization of the DOT's hazardous materials transportation program provides an opportunity for Congress and the Obama Administration to make our transportation system safer for the public and employees. Lawmakers must pass a new reauthorization bill reflecting the changing and inherently dangerous transportation environment we face. Hazardous materials transportation is a critical responsibility of the nation's transportation companies. The increasing demand for hazmat shipments necessitates a sensible rewrite of federal hazmat laws that enhances safety and security for transportation workers, firefighters and other first responders, and the public. Congress and the President must complete this important legislation in the 111<sup>th</sup> Congress.

**Policy Statement No. W09-04**  
**Adopted March 1, 2009**