



## **CONGRESS MUST REAUTHORIZE HAZARDOUS MATERIALS TRANSPORTATION PROGRAMS**

The safe and secure transportation of hazardous materials and toxic chemicals is a vital national interest, particularly in a post 9/11 world. It is critical that the safety laws surrounding hazmat transportation are maintained and enforced, and that employees in this perilous environment are well prepared for and protected from the risks they face on the job. Yet for over a decade, lawmakers have ignored this critical piece of our transportation network and failed to reauthorize the 1994 Hazardous Materials Transportation Act (HMTA). Without question, Congress must move this long-overdue legislation by including it in a final Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) reauthorization bill.

With an estimated one million hazmat shipments moving by truck, rail, pipeline, air and water each day, protecting the traveling public and hazmat workers has never been more important. The highly toxic nature of these materials – which would quickly cause mass destruction in a densely populated area – and the added reality that terrorist elements may try to seize a shipment to wreak such havoc, make it imperative that Congress let, no more time lapse before hazmat programs are reauthorized.

In the 108<sup>th</sup> Congress, the leadership of the House Transportation and Infrastructure and the Senate Commerce, Science, and Transportation Committees crafted bipartisan hazmat titles that were included in their respective TEA-21 reauthorization bills, H.R. 3550 and S. 1072. These bills passed the House and Senate with overwhelming bipartisan support. Yet as Congress attempts to bring a surface transportation reauthorization bill to Conference again this year, HMTA reauthorization remains in jeopardy as some in industry continue an aggressive campaign to strip the entire hazmat title from the bill. The revamped attempt by industry to kill hazmat programs brings on a strong sense of déjà vu – HMTA reauthorization was expected to be part of TEA-21 in 1998, but ultimately, the title was dropped completely at the urging of railroads, trucking companies, and shippers.

This outlandish drive to stop hazmat reauthorization is based on industry's objection to several provisions, including the retention of safety and health protections for workers who haul or handle hazmat. A critical element of safe hazmat transportation is ensuring that workers are protected with the most effective and most comprehensive health and safety standards available. Current law requires the Occupational Safety and Health Administration (OSHA) and the Department of Transportation (DOT) to share joint regulatory authority over hazmat employees. In fact, OSHA standards on personal protective equipment and other safety matters have applied to workers involved in the loading, unloading, storage, and transportation of hazardous materials since 1990. Removal of OSHA's protective standards would be a slap in the face to these workers who lay their lives on the line everyday in a dangerous industry. Moreover, while shippers and motor carriers argue that they would support DOT prescribing safety standards, the DOT has expressed little interest in – and in fact has virtually no expertise in – setting workplace safety standards.

**Transportation Trades Department, AFL-CIO**



Congress has twice passed legislation confirming that OSHA and DOT must share regulatory authority in this industry, and H.R. 3550 and S. 1072 each maintain this shared jurisdiction. Moreover, DOT upheld this position in a recent rulemaking, indicating there would be no change to the current division of responsibilities between the two agencies. Apparently, this clear pro-safety position is unacceptable to a coalition of industry groups, which has filed suit to overturn the rulemaking – while at the same time hoping to stall any further legislative action that would solidify labor’s position on the issue. TTD and our affiliated unions will continue to strongly oppose any attempts to remove the hazmat title from TEA-21 reauthorization – or to recklessly water down provisions that protect and prepare workers.

Instead, we believe the TEA-21 reauthorization legislation provides an excellent opportunity to improve and expand hazmat employee training programs that after a decade of flat funding desperately need a boost. These training programs have enhanced the ability of workers to safely transport hazardous materials and have ensured that first responders are properly trained to promote public safety. For more than a decade, federal hazmat grants have allowed the International Brotherhood of Teamsters and the International Association of Fire Fighters, among others, to train tens of thousands of hazmat employee instructors. These instructors have in turn trained over half a million rank and file first responders. In addition, these grants have helped rail unions develop a peer instructor hazmat training program that has provided training to over 18,000 workers since 1990.

The continuation of these programs at higher funding levels is critically important, as workers often cannot rely on railroads or motor carriers to provide adequate or uniform hazmat training. Both H.R. 3550 and S. 1072 include provisions to grow the Hazmat Employee Instructor Training program by 25 percent, authorizing \$4 million per year. Fire fighter training grants grow four-fold to \$1 million per year in both bills. Transportation labor will continue to fight for these increases to become law. In addition, we believe these programs should be expanded so that the funding can be used to not only train employee instructors, but to train rank and file hazmat workers as well. Also, we continue to support DOT’s coordination with other agencies with expertise in training program development, especially the National Institute of Environmental Health Sciences (NIEHS).

A related training issue affects non-operating railroad workers, such as maintenance of way employees and signalmen, who under current law receive little, if any, hazmat training – leaving these workers without the knowledge to protect themselves in the event of an accident. As they are among the first to arrive on the scene of an accident, there is no justification for denying these employees basic safety training to be able to react appropriately to a chemical spill or release. Last year’s House bill includes language, which TTD strongly supports, to affirm that maintenance of way and signal employees are to receive awareness level and safety training.

Reauthorization of HMTA must also address transportation labor’s longstanding concern that foreign drivers hauling hazardous materials are not required to meet substantially the same requirements as U.S. drivers. Effective last month, U.S. commercial drivers seeking new hazmat endorsements must undergo security threat assessments, including comprehensive criminal background checks – yet foreign drivers, hauling the exact same materials, are given a waiver.

The latest DOT Inspector General report on this issue concurred with our view that vehicles owned or leased by Mexican motor carriers must not be permitted to haul hazardous materials until an agreement is reached regarding security threat assessments of Mexican drivers. Both the House and Senate passed bills include language to close this loophole.

We will also continue to oppose any proposals to remove placards from hazmat shipments. Current law requires that visible placards accompany all hazmat shipments, which in many cases provides the only identification of such materials for fire fighters and other workers called to the scene of a hazmat incident. Any language put forth to weaken current law or to provide exemptions to placarding requirements must be rejected.

Finally, we oppose provisions in a hazmat reauthorization bill that would allow shippers and carriers to receive exemptions from federal hazmat regulations for a longer period of time. Both the House and Senate passed bills propose to allow subsequent renewals of exemptions or "special permits" to remain in effect for four years, up from two years under current law. While we oppose both provisions, the House bill at least maintains current law, or a two year renewal, for highway routing exemptions. Routing designation must include population densities and types of emergency response capabilities available – all of which can change significantly in a four-year period. We see no reason why Congress should give in to the Administration's requests to eliminate "paperwork burdens" if such an act jeopardizes public safety.

The reauthorization of TEA-21 provides a clear opportunity to highlight the importance of hazardous materials transportation, to renew programs that have remained stalled for the last decade, and to close several dangerous safety loopholes. Lawmakers must not allow special interests to place workers, passengers, and travelers at unnecessary risk for another six years and we therefore urge Congress to include a HMTA reauthorization in a final surface transportation bill.

**Policy Statement No. W05-03**  
Adopted February 27, 2005