

**Before the  
United States House of Representatives  
Committee on Transportation and Infrastructure's  
Subcommittee on Railroads, Pipelines and Hazardous Materials**

**Statement of Barbara Windsor  
on behalf of the**

**American Trucking Associations, Inc. (ATA)  
and  
National Tank Truck Carriers (NTTC)**

***Reauthorization of the Department of Transportation's  
Hazardous Materials Safety Program***

**November 16, 2009**

Madam Chairman, Ranking Member Schuster, and Members of the Subcommittee:

Thank you, for the opportunity to testify on the reauthorization of the Department of Transportation's (DOT) hazardous materials safety program.

My name is Barbara Windsor, and I am the President of Hahn Transportation, a trucking company headquartered in New Market, Maryland. My family built and grew this business over the past 75 years and today we operate more than 100 trucks and employ over 150 individuals. My company hauls petroleum and other hazardous materials in bulk. As a trucking company, we are proud of our safety record and strive to operate in full compliance with the federal hazardous materials safety regulations.

Today, I appear before you representing not just my company, but also the American Trucking Associations (ATA) and the National Tank Truck Carriers (NTTC). I am proud to serve as ATA's First Vice Chairman and I am a past Chairman of NTTC. ATA is the national trade association of the trucking industry. Through its affiliated state trucking associations, affiliated conferences and other organizations, ATA represents more than 37,000 trucking companies throughout the United States. NTTC represents for hire bulk carriers and has over 300 members in this segment of the trucking industry.

The trucking industry is the backbone of this nation's economy accounting for more than 80% of the nation's freight bill with nearly 9 million Americans working in trucking-related jobs. The trucking industry delivers virtually all of the consumer goods in the United States and the lion's share of essential hazardous materials, such as pharmaceuticals to treat the ill, chemicals to purify water, military supplies to protect our troops, pesticides and fertilizers to help feed the world, and fuel to power our cars and heat our homes. These hazardous materials are essential to support our quality of life and their safe and efficient transportation is critical to this Nation's economic well being.

The safety and security record for the transportation of hazardous materials is impressive. Each day there are approximately 1,000,000 shipments of hazardous materials in the United States.<sup>1</sup> 94% of these shipments move by truck.<sup>2</sup> The rate of serious incidents involving the transportation of hazardous materials by motor carrier is just 0.0001%, and the percentage of incidents involving injuries is 0.00002% or two one-hundred thousandths of one percent.<sup>3</sup>

I note that on May 14, 2009, ATA testified before this Subcommittee on its hazardous materials safety priorities. That testimony highlighted the following six key issues for Congress to address as it considers the reauthorization of the federal hazardous materials transportation law:

- Eliminating duplicative and redundant security background checks;
- Improving state hazmat permitting systems;
- Ensuring equitable enforcement of the hazmat regulations;
- Enhancing safety by increasing DOT's preemption authority; and
- Resolving jurisdictional issues concerning the Occupational Safety and Health Administration (OSHA) and DOT's regulation of hazmat handling; and
- Regulating the transportation of flammable materials in cargo tank wetlines.

In lieu of restating our prior testimony, I encourage Committee members to review that testimony and will now focus the remainder of my remarks upon the provisions of H.R. 4016 that would ban the transportation of flammable liquids in external product piping of cargo tanks.

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<sup>1</sup> See Hazardous Materials Cooperative Research Act of 2009, H.R. 1013, 111<sup>th</sup> Congress (February 12, 2009).

<sup>2</sup> See Research and Special Programs Administration, Office of Hazardous Materials Safety, *Hazardous Materials Shipments* (October 1998).

<sup>3</sup> See U.S. Department of Transportation, Hazardous Materials Information System (May 1, 2009). Note many "serious incidents" do not involve injuries, as highway closures and certain releases of hazardous materials are classified as "serious incidents" even though no one is injured.

## **A. Wetlines Background**

Wetlines refer to the product piping underneath cargo tank trucks that transport gasoline and other flammable liquids. ATA and NTTTC oppose a legislative mandate to purge residual product from wetlines for the reasons discussed below.

In 1998, following a fatal accident involving a cargo tank, the National Transportation Safety Board (NTSB) issued a recommendation to DOT to prohibit the transport of flammable materials in wetlines to reduce the risk of serious injuries from the release of product in the event that a car crashes into a tank truck (NTSB Safety Recommendation H-98-27). In 2004, the Research and Special Programs Administration (RSPA), predecessor to the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposed a rule to prohibit the transport flammable liquids in wetlines. The proposed rule would have required tank trucks to install a device that pumped any residual liquid back into the tank prior to transportation. Based upon its analysis of data from incidents attributable to wetlines and the costs associated with requiring equipment to evacuate product from wetlines, PHMSA concluded that the costs of the proposed regulation exceeded its benefits and properly withdrew the proposed rule.<sup>4</sup>

## **B. Data Demonstrate that Wetlines do not Pose a Significant Safety Risk**

We believe that the industry's safety record demonstrates that a mandate for wetlines-purging equipment is simply not justified. Earlier this year, Subcommittee staff conducted an exhaustive examination of DOT's hazmat incident database. The results of that examination revealed that over the past ten years there have been six fatalities that are directly attributable to wetlines releases.<sup>5</sup> By contrast, more than 50,000 cargo tank shipments of flammable liquids occur each day and over 180 million shipments have occurred over that same time period. These government statistics indicate that the risk of a fatal wetlines incident is approximately 1 in 30,000,000. In fact, the odds of being struck by lightning during your lifetime are 6,000 times greater than the odds of being killed in a wetlines incident.<sup>6</sup>

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<sup>4</sup> RSPA responded to an NTSB recommendation, proposed a solution to a perceived problem, accepted comments, analyzed the data, and then properly concluded that the costs of the proposed solution far exceeded its benefits.

<sup>5</sup> See U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration letter to Chairman James L. Oberstar (September 24, 2009).

<sup>6</sup> According to the National Weather Service the odds of being struck by lightening during your lifetime are 1 in 5,000. <http://www.weather.gov/om/lightning/medical.htm>

We recognize that the open NTSB recommendation makes it difficult to dismiss the potential, albeit small, risk created by wetlines; however, NTSB's recommendation is based upon limited data. The NTSB recommendation stems from a specific accident investigation. Nowhere in NTSB's analysis is there a discussion of the actual risk to the public from the transportation of flammable liquids in wetlines. NTSB does not consider the frequency with which petroleum tankers operate, and most importantly does not consider the actual likelihood that a cargo tank motor vehicle will be involved in a fatal wetlines accident. Finally, the NTSB recommendation does not consider the costs involved in purging wetlines, nor the human lives that will be lost as a result of a retrofit requirement, wherein the frequency of welding on existing gasoline tankers is dramatically increased.

In light of this, we recommend that Congress require the National Academies of Sciences to conduct an in depth study on the transportation of flammable liquids in cargo tank external piping. This report should at a minimum quantify the risks posed by wetlines and analyze the costs and feasibility of eliminating the transportation of flammable materials in wetlines. Upon completion of the study, Congress should require the Secretary to address the conclusions in an appropriate manner.

### **C. Costs and Risks of Wetlines Purging Systems**

While H.R. 4016 does not specifically mandate the installation of a wetlines purging system, these types of systems are the only ones currently available to satisfy the legislation's requirement that no flammable liquids be transported in the external product piping of a tank truck. We discuss the need for greater flexibility in this area in Section D, below.

Perhaps the greatest cost associated with a Congressional mandate to ban the transportation of flammable liquids in cargo tank external piping will be the additional lives lost as a result of bringing a large number of used cargo tanks into a shop environment for welding operations. According to a newspaper search conducted by NTTCC, during the past 10 years there have been 20 fatalities that have resulted from welding operations performed on cargo tanks. We believe that this number is significantly understated, as an internet newspaper search is unlikely to uncover all of the cargo tank shop incidents that have occurred over the past 10 years. Even using this rudimentary analysis, however, it is clear that the mandate to install wetlines purging systems will result in an increase in fatalities; especially considering the fact that many more cargo tanks will be required to visit maintenance facilities than currently occur under typical maintenance cycles.

We recognize that H.R. 4016 attempts to address the risks created by increased welding activity on cargo tanks by requiring the Occupational Safety and Health Administration (OSHA) to review and update existing standards to ensure that personnel conducting welding activities are adequately protected. Unfortunately, welding performed upon gasoline tankers that have been previously used is an inherently dangerous activity. Regardless of the precautions taken to clean out the tank prior to performing maintenance activities, there are too often situations where gasoline vapors remain. Even the best cargo repair facilities have these types of accidents, and they are already well aware of the potential for vapors to remain in valves, baffles and other appurtenances to the cargo tank. As such, we do not expect the updating of an OSHA standard to reduce the danger associated with these types of cargo tank maintenance operations.

We also understand that the manufacturer of the only available wetlines purging system is working on developing a system that does not have to be welded to the tank. Unfortunately, this system would still require replacement of cargo tank valves. Moreover, the system has not yet been tested and its commercial viability is still uncertain.

Putting the human cost of retrofit aside, the capital cost associated with retrofitting a cargo tank is approximately \$8,000 per tank, or almost \$200 million for the entire existing fleet. This figure does not include the costs associated with the “downtime” of the equipment during the retrofit process and does not include the ongoing maintenance costs.

In addition to the equipment, installation, and maintenance costs, there is a cost associated with lost carrier productivity that will result from delays at loading facilities waiting for the purging system to completely evacuate the wetlines prior to moving the cargo tank. System malfunctions would further erode carrier efficiency.

The costs of retrofitting my own fleet likely would exceed \$800,000. This is an enormous expense for a family-owned business such as mine. Given my company’s limited access to capital, the required investment in purging systems could prevent me from deploying other proven safety technologies.

We urge Congress to require a study of this contentious issue and to allow the experts at PHMSA to determine the most appropriate course of action. A ban on transporting flammable liquids in cargo tank piping would create additional safety risks for cargo tank maintenance facilities and impose significant costs on an industry that is struggling in this difficult economic environment.

**D. Alternatives that Provide an Adequate Level of Safety**

By prohibiting the transportation of flammable liquids in wetlines, H.R. 4016 prevents the development of alternatives that could provide an adequate level of safety. In order to address this concern, the legislation should be amended to allow the Secretary to review various cargo tank designs and authorize the transportation of flammable liquids in wetlines where the Secretary determines that such transportation does not present an unreasonable safety risk. This modification would encourage cargo tank manufacturers to develop alternatives such as under-ride protection, relocation of wetlines to make them less vulnerable in an accident, or other measures that provide an adequate level of safety. While the risk of a wetlines incident remains too small to warrant these types of modifications, we believe that it may be possible to address this issue in a more cost effective manner.

The legislation, as written, effectively requires the modification of a large fleet of cargo tanks. Perhaps a more efficient way to address this concern is to require petroleum terminals to remove flammable liquids from cargo tank wetlines during the loading process. It seems much more reasonable to require modification of a couple of hundred petroleum loading racks, than to require tens of thousands of cargo tanks to be retrofitted and redesigned. Should Congress wish to pursue this alternative, it will be necessary to recognize that a large petroleum terminal has significant leverage over an individual for-hire motor carrier that loads gasoline at its facility. As such, a requirement for the petroleum terminal to evacuate product from a cargo tank wetline must be combined with a requirement that this activity be accomplished through a modification to the loading rack. In the absence of such a requirement, petroleum terminals will simply require motor carriers to retrofit their tanks with purging systems as a precondition to loading at their facilities.

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Thank you for allowing me to testify. ATA, NTTC and Hahn Transportation greatly appreciate this opportunity to offer our insight into measures to improve the safe, secure and efficient transportation of flammable liquids in cargo tanks. I am pleased to answer any questions you and the other members of the Subcommittee may have.