

Testimony of:
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Hazardous Materials Transportation Act Reauthorization
Railroads, Pipelines, and Hazardous Materials
April 7, 2011

Mr. Chairman, Madam Ranking Member and Members of the Subcommittee:

My name is John L. Conley and I am president of National Tank Truck Carriers. My association represents trucking companies that deliver materials in bulk such as petroleum products, chemicals, food products and cement. Our membership also includes companies that provide equipment and services to the tank truck industry.

I first would like to commend the safety professionals at the Pipeline and Hazardous Materials Safety Administration and their predecessor agency with whom I have worked for over 35 years. As the Chairman has observed, the United States is served by a very safe hazardous materials transportation network. This system that is copied by countries around the world is credit to and verification of the close cooperative relationship between the agency and industry to meet our shared goal of no hazardous materials transportation incidents

We sometimes disagree on how to meet that shared objective and I am here today to discuss two issues that cause my members real concern. The first issue involves the transportation of flammable materials in the loading lines of cargo tanks – the so-called wetlines issue. This is not a new topic for veteran members of this subcommittee.

The second issue concerns a rulemaking from PHMSA which I believe would compromise hazardous materials transportation regulatory compliance, enforcement, and safety. That rulemaking—HM241—would result in severely restricted public access to the regulatory process and to currently applicable regulatory requirements in the hazmat regulations.

NTTC appreciates the work that both the Chairman and Ranking Member of this subcommittee devoted to the wetlines issue in the 111th Congress. This issue has now taken on a life of its own as PHMSA recently published another proposed rulemaking to ban wetlines.

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Unfortunately, in an attempt to change economic cost benefit facts to fit a failed theory, PHMSA bases much of HM213D on an unproven manual purging device available only from one commercial provider. To our knowledge, no carrier has purchased or tested this manually operated device which is supported only by the claims of its manufacturer.

Our analysis of this recent wetlines ban iteration reveals that its costs far exceed its potential benefits. We also remain concerned that any retrofit requirement could be detrimental to the safety of workers in tank repair facilities, and therefore ask this Committee to mandate a study of the wetlines issue while enjoining PHMSA from finalizing the rule proposed on January 27th.

Such a study should consider the actual scope of the perceived problem, the advantages and disadvantages of possible equipment or operational solutions to the perceived problem including the potential increased risk exposure to shop workers, and whether or not the issue should be addressed at the petroleum loading rack or on the thousands of pieces of trucking equipment operated throughout our country.

The second issue I would like to briefly address is a PHMSA rulemaking that would turn over the cargo tank rule-writing function it now so competently exercises in Title 49 Parts 178 and 180 to third party service providers. The cost free and immediate availability of the current regulations and, more importantly, ready access to the open regulatory process would be severely impacted for no safety reason. The existing process would be replaced by a closed process where private entities develop copyrighted materials to be adopted by reference by the agency and purchased by the regulated public and enforcement communities. Those private entities have filed the petitions that led to this rulemaking, and who could blame them?

A tank truck carrier, shipper, equipment manufacturer, safety trainer, or member of the enforcement community that now has complete access to the regulations and regulatory process would be required to pay at least \$600 for the two books required to learn compliance information now included in the publically available regulations, and would have to work through the private providers' committee process to propose changes or even get interpretations of what is required for compliance or enforcement.

National Tank Truck Carriers firmly believes that PHMSA should not outsource this important safety responsibility. The current system has worked very well as the outstanding safety record of tank truck transportation of hazardous materials clearly demonstrates. While we generally support the concept of development and use of consensus standards, this transfer of existing regulations through HM241 to private entities would impact thousands of companies and enforcement agencies. Again, there is no safety reason to fix a regulatory process that is not broken.

Thank you for your attention.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:
John L Conley

(2) Other than yourself, name of entity you are representing:

National Tank Truck Carriers

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

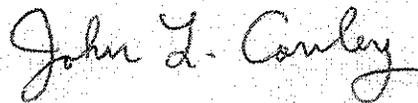
YES

If yes, please provide the information requested below and attach your curriculum vitae.

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

None



John L Conley (signed)

Signature

Date April 4, 2011

John Conley Bio

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John Conley is President of National Tank Truck Carriers, the trade association that represents more than 200 highway transporters of commodities in bulk as well as nearly 300 suppliers to that industry. He joined NTTC in 1989 after serving as editor of Modern Bulk Transporter magazine for 12 years. He is a past member of the Board of the Dangerous Goods Advisory Council, on the Transportation Research Board's Committee on the Transportation of Hazardous Materials, the National Association of State Fire Marshall's Hazardous Materials Response Committee, and on the Commercial Vehicle Safety Alliance Hazardous Materials Committee. He also serves on the TRANSCAER National Steering Committee. Conley holds a Masters Degree in Journalism from the University of Maryland and is a veteran of the U. S. Navy.