

October 19, 2015

The Honorable Bill Shuster  
Chairman  
Transportation and Infrastructure Committee  
US House of Representatives  
Washington, DC 20515

The Honorable Peter DeFazio  
Ranking Member  
Transportation and Infrastructure Committee  
US House of Representatives  
Washington, DC 20515

The Honorable Sam Graves  
Chairman  
Highways and Transit Subcommittee  
US House of Representatives  
Washington, DC 20515

The Honorable Eleanor Holmes Norton  
Ranking Member  
Highways and Transit Subcommittee  
US House of Representatives  
Washington, DC 20515

The Honorable Jeff Denham  
Chairman  
Railroads, Pipelines, and Hazardous Materials  
Subcommittee  
US House of Representatives  
Washington, DC 20515

The Honorable Michael Capuano  
Ranking Member  
Railroads, Pipelines, and Hazardous Materials  
Subcommittee  
US House of Representatives  
Washington, DC 20515

Dear Chairmen Shuster, Graves, and Denham and Ranking Members DeFazio, Norton, and Capuano,

On behalf of the Institute of Makers of Explosives (IME)<sup>1</sup>, I am writing to thank you for introducing the Surface Transportation Reauthorization and Reform Act 2015 (Act). This legislation addresses policy concerns of importance to the commercial explosives industry.

Commercial explosives are the backbone of our industrial society. Metals, minerals, oil, power, various construction and demolition services, and many consumer products are available today because of commercial explosives. These products are transported by all modes, used in every state of the Union, and distributed worldwide.

The transportation of commercial explosives has been accomplished with an enviable record of safety and security. We have advocated for policies that responsibly address risk while improving administrative accountability and transparency, providing needed due process protections, and without imposing onerous new user fees that would have fallen disproportionately on our industry. Allow me to highlight key provisions of the Act that promise these benefits.

Section 7006 would set higher standards for administrative accountability, transparency and efficiency within the Pipeline and Hazardous Materials Administration's (PHMSA) Special Permits and Approvals program. IME members are required by regulation to obtain classification approvals

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<sup>1</sup> IME is the safety and security institute of the commercial explosives industry. Our mission is to promote safety and the protection of employees, users, the public and the environment; and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use and disposal of explosive materials used in blasting and other essential operations. The Institute does not sponsor trade shows or other marketing events. Millions of metric tons of high explosives, blasting agents, and oxidizers are consumed annually in the United States. Of this, IME member companies produce over 98 percent of the high explosives and a great majority of the blasting agents and oxidizers.

from PHMSA prior to the transportation of explosive products. The uncertainty of when decisions will be made has significant impacts on supply chains to the detriment of U.S. business.

The explosives industry may not self-classify its products. Rather, industry is required to obtain classification approvals from third-parties designated by PHMSA. Section 7007 tasks GAO to study and make recommendations and the Secretary to act on those recommendations to ensure that standards, metrics and protocols used to oversee the accuracy of approval classifications rendered by third-parties are sufficient to render costly delays from agency reconsideration of these classifications unnecessary.

This legislation and its Senate counterpart do not authorize new user fees for processing special permit and approval applications, which have been proposed by the administration. The explosives industry is the second largest filer of such applications. As pointed out above, regulations require the submittal of applications for classification approvals rendering the “fee” a “tax” on our industry. Program efficiencies to better align processing protocols with other industrialized trading partners, as we expect from the policies in Sections 7006 and 7007, is preferred over saddling U.S. business with multi-million dollar annual user fees.

Section 7009 builds on provisions in MAP-21 to reform the Hazardous Materials Safety Permit (HMSP) program by codifying new administrative procedures issued by the Federal Motor Carrier Safety Administration that provide due process to permit holders to appeal automatic denials. The explosives industry is the largest segment of the HMSP universe. Despite our safety record, many were faced with the prospect of permit denial based on inadequate consideration of a holder’s safety management practices and performance. Without due process, an automatic denial would amount to an “out-of-business” sentence given that the specialize equipment used to move the vast majority of explosives cannot be reconfigured to move other products while companies “age out” of automatic disqualifications.

Finally, Section 7014 serves as a placeholder for an extension of the deadline for railroads to install Positive Train Control (PTC) technology by December 31, 2015. IME supports the implementation of a sound PTC system. However, failure to extend the current deadline could be devastating to our economy. Railroads have indicated that they will shut down large portions of their networks on January 1, 2016 given fines, increased liability, and the fact that they and their workers cannot be compelled to operate in violation of federal law. The explosives industry relies on railroads to deliver 80 percent of the billions of pounds of essential bulk materials used in blasting agents we manufacture. There is not sufficient truck capacity to carry this quantity of material if railroads are no longer able to deliver needed supplies. Crippling our industry will also cripple the Nation’s mining and other industries that rely on commercial explosives.

While we are most grateful for the policies that directly impact our industry, we also recognize the critical importance to the productivity and economic welfare of the Nation of enacting a long-term surface transportation bill. Regrettably, the United States no longer leads the world in infrastructure development. We need Congress to enact a multi-year surface transportation bill that will facilitate commerce and economic growth, boost our competitiveness, create jobs and improve our quality of life.

Again, we welcome the introduction of this legislation and urge your colleagues to join with you as cosponsors or otherwise support this important safety and productivity measure.

Respectfully,

*Cynthia Hilton*

Cynthia Hilton  
Executive Vice President