

April 12, 2011

Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001  
via E-FILING

**Attn: Docket No. EP 705  
Competition in the Railroad Industry**

These comments respond to the notice published in the January 14, 2011 *Federal Register* issue regarding Docket No. EP 705, Competition in the Railroad Industry.

The National Association of Chemical Distributors (NACD) is an international association of more than 380 chemical distributors and their supply-chain partners. NACD represents more than 85% of the chemical distribution capacity in the nation and 90% of the industry's gross revenue. Members of NACD operate in every region of the country through approximately 1300 facilities. The membership includes small businesses as well as many regional and national companies.

Hazardous materials transportation is an integral part of the chemical distribution business. In 2009, NACD members were responsible for the delivery of over 75 billion pounds of chemicals and drove more than 160 million miles in the distribution of these products.

NACD commends the Surface Transportation Board (STB) for examining the issue of rail competition. Today, because of consolidation that has occurred since enactment of the Staggers Rail Act of 1980, there are now only seven Class I railroads, and just four of these railroads dominate the long-haul freight market. This has led to a situation of no competition where these railroads have monopolies in their areas. As a result, freight rail customers in a variety of industries, including the chemical industry, are subject to ever-increasing prices, unfavorable terms, and poor service.

Chemical distributors have a strong history of continually increasing efficiencies and reducing costs for their customers. Most chemical distributors are small businesses and generally operate on narrow profit margins. There are many distributors in the marketplace, which keeps competition robust, therefore evidencing the need to have the most efficient logistics supply chains possible, including rail transportation.

Chemical distributors depend on rail service to send and receive shipments. Because they are captive to only one railroad, many of these companies have been subject to large and frequent price hikes and undependable service year after year. The increased costs and shipment delays caused by the current rail situation are ultimately passed down the supply chain, raising prices to the consumer level.

Owners and operators of chemical facilities would be pleased to have the opportunity to choose their own rail carriers, rather than being forced to accept the terms of the single carrier serving their respective areas. A primary cause of this lack of choice is the fact that the railroads completely control access to the tracks. In many cases, a given shipper or receiver is accessed by only a single railroad track; and the track is owned by the railroad that operates it. The railroads have been reluctant to allow other carriers to use their tracks, denying a choice to the many facilities served by only a single track.

It is in the public interest for chemical shippers to have access to affordable and dependable rail service. Many chemical distributors need rail service to safely and effectively transport large quantities of hazardous materials and have no choice but to accept the terms demanded by the railroads. Again, because so many areas are served by only a single railroad, companies do not have the option of choosing another rail carrier. In many cases, switching to trucks would not be a practical option.

For some materials, rail is the safest and most efficient mode of transportation because of the large volume capacity of rail cars and a strong rail safety record. A single rail car can hold the same volume as between four and eight tank trucks. If rail service were to become unavailable because of unsustainable price increases, transportation of these materials would be shifted to truck, which would not only cause major delays, but would also increase cost of transportation, the opportunity for loading and unloading incidents, and the volume of hazardous materials on the nation's highways.

The railroads themselves admit that hazardous materials transportation by rail is safer than by truck. On its Web site, Jacksonville, Fla.-based CSX Transportation Inc., one of the four dominant Class I Railroad, says, "Rail is the safest way to transport goods over land. For every billion ton-miles of hazardous materials transported, trucks are involved in more than 16 times as many accidents as railroads."

Finally, unlike 30+ years ago when the Staggers Act was enacted, railroads are now in a strong financial state. In preparing the report, "The Current Financial State of the Class I Freight Rail Industry," September 15, 2010, the Senate Commerce, Science, and Transportation Committee staff reviewed the Securities and Exchange Commission filings of the four largest rail carriers and found that they had nearly doubled their profit margin in the last 10 years. Warren Buffett's 2009 purchase of BNSF railroad for \$34 billion is a clear demonstration of the strong financial state of the railroad industry.

NACD appreciates the opportunity to comment on this critical issue and urges the Board to take necessary actions to restore competition to the railroad industry. This would benefit shippers, consumers, and the economy as a whole.

Sincerely,

Jennifer C. Gibson  
Vice President, Government Affairs  
NATIONAL ASSOCIATION OF CHEMICAL DISTRIBUTORS  
1555 Wilson Boulevard, Suite 700  
Arlington, VA 22209  
(703)527-6223