Chairman Tiberi, Ranking Member Neal, and Members of the Ways and Means Subcommittee on Select Revenue Measures, thank you for the opportunity to submit testimony today.

I submit this testimony in support of the extension of the coke (fuel) credit provided under section 45K(g) of the tax code. This tax code section provides a production credit for coke facilities placed in service before January 1, 2010. I would urge the Committee to extend this date as far into the future as the Committee finds practicable because of the length of time needed to plan, permit and build a new coke facility.

As the Committee may be aware, coking is a process very similar to making charcoal – but instead of wood, you are using coal to produce a different refined fuel that burns cleaner, hotter, and with additional properties than the coal it starts out with. Coke – apart from the raw iron ore – is a main, if not the primary, input into the production of steel.

The coke credit is a long-standing tax credit with an equally long-standing policy basis behind it. It was first created in 1980 for facilities placed into service within the following 10 years. It has been renewed ever since, the last time as part of the Energy Act of 2005. While Congress first treated coke as an alternative fuel to oil in the 1980 Act, it really is not. Coke is a product of metallurgical coal that is processed or baked to produce metallurgical coke. It is an essential fuel and chemical agent in the making of steel. It is in no way an alternative to oil or gasoline. But it was not until the 2005 Act that Congress began to recognize that. In that Act the benefit of the credit was adjusted downward since it had grown with the price of oil to which it was tied even though it was not an alternative to oil as a fuel. In 2006 Congress addressed the other side of the question by decoupling the coke credit from the phaseout of the credit that depended on the price of oil. These changes are relevant because they were important background to Congress’ consideration of extenders in the December 2010 tax bill. As I understand it, the effort at that time was to extend “traditional” business tax credits but not extend new ones. Since the coke credit had been redesigned in 2005 and 2006 to reflect the correct understanding of what coke really is, it was viewed as a “new” credit and did not receive an extension. That mistake needs to be corrected now.

That mistake bore consequences. Fortunately, the 200-oven coke facility located in Haverhill, Ohio, was placed in service before the expiration of the credit. But, a facility in Middletown, Ohio, was under construction at the time of the expiration. Plans for that facility were originated in 2007 with a goal of placing the Middletown plant in service before January 2010.
With encouragement in Congress for the extension, plans went forward but were delayed by litigation and regulatory hurdles. When the Middletown plant was completed in November of 2011, it became the only modern-day plant erected without the benefit of the credit.

The disparity between the costs of operation in Middletown compared with other facilities in the United States is a fact, but such disparity is dwarfed when compared to foreign competitors. A ton of coke produced in Haverhill or Middletown costs 5 to 7 times what it costs in China or India. That is because of environmental regulations and the higher cost of U.S. labor. Since we value clean air and support a well-paid workforce in the United States, the way to address this competitive imbalance is with an extension of the coke credit. The policy alternative is to let the construction jobs and full-time jobs that follow go overseas and weaken our capacity to produce world-class steel here in America. If coke capacity moves offshore, it is my fear that in time steel will follow because of the synergies involved. In a modern heat-recovery coke facility, the water, coal-gas and coal-tar inherent in coal are captured and combusted during the baking process, thereby providing environmental benefits and a source of energy for operating an adjoining steel plant. These synergies disappear if the coke plants are built offshore.

The domestic coke industry supports an estimated 3,200 to 4,200 American jobs. Furthermore, construction of modern coke facilities in the U.S. typically support 500 or more construction jobs for each new facility. The policy alternative to extending this credit is to let thousands of full-time jobs and many more construction jobs that follow go overseas and weaken our capacity to produce world-class steel here in America. This could also impact tens of thousands of jobs in related industries like coal mining and steel production."

Generally, I understand that many cokemaking facilities in the U.S. are quite antiquated. They are less efficient and not as environmentally advanced as a modern facility. Of the 40 or so coke facilities in the U.S., two-thirds are more than 25 years old. Nearly half are over 50 years old. We have 2 that are over 65 years old. It is generally not cost effective to modernize an old plant, so we need some new coke plants if we are to foster a healthy, productive steel industry.

I am supportive of looking closely at the tax code and determining what should stay and how we can simplify the tax code and lower rates. Under tax reform, the coke credit should be considered in light of those overarching goals. As Congress considers which tax credits might be appropriate to extend this year, it should review the coke credit and the policy basis for extending it. As a practical matter, the coke credit helps new facilities built with high environmental standards compete with foreign coke facilities that have lower labor costs and lower environmental standards. The coke credit helps make the price of coke more
competitive but, it should be noted, does not come close to offering a level playing field for our U.S. producers or steel companies. Thus the credit serves to foster two related industries important to the manufacturing sector in the U.S. I encourage the Committee to consider the wisdom and benefit to U.S. jobs and the economy in extending this long-time credit.

The Honorable Bill Johnson
Member of Congress