



**WRITTEN TESTIMONY OF  
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**BEFORE THE  
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS  
MATERIALS**

**HEARING ON:  
“EXAMINING THE STATE OF RAIL SAFETY IN THE AFTERMATH OF THE  
DERAILMENT IN EAST PALESTINE, OHIO”**

**JULY 23, 2024**

Chairman Nehls, Ranking Member Wilson, and Members of the Subcommittee, thank you for the opportunity to discuss rail safety issues, including important lessons from the tragic events related to the derailment in East Palestine, Ohio.

The American Chemistry Council (ACC) shares the Committee's goal to advance transportation safety and to protect public health and the environment. We also share the Committee's gratitude to the emergency responders, government officials, and rail workers for their tireless efforts responding to this incident. In addition, we appreciate the hard work and diligence that the National Transportation Safety Board put into its thorough investigation of the East Palestine derailment. This incident is a strong reminder that more work is needed to further improve freight rail and hazardous materials transportation safety.

Our nation's freight rail network and supply chain have faced many challenges over the years, and ACC is committed to working with Congress, the Administration, and all stakeholders to further advance safety while supporting a resilient and reliable transportation network.

### **About The American Chemistry Council**

ACC is an industry trade association that represents the leading companies in the business of chemistry. Our members produce and manufacture a wide variety of chemicals, polymers, and related products that make our lives and our world healthier, safer, more sustainable, and more productive. As a \$639 billion enterprise, the business of chemistry is a key element in the nation's economy and a large user of the U.S. freight

transportation system. In 2022, our industry shipped more than 2.3 million carloads of chemical products on freight railroads.

ACC and its members are committed to the safe transportation of hazardous materials throughout the supply chain. As part of Responsible Care<sup>®</sup>, the chemical industry's world-class environmental, health, safety and security performance initiative, our members have invested billions of dollars in training and technology, including railcars and other containers used to transport our products. In addition, ACC members support communities and local emergency responders through the CHEMTREC<sup>®</sup> and TRANSCAER<sup>®</sup> programs that provide resources and training to respond to hazardous material transportation incidents. This includes immediate critical response information about hazardous materials.

Our industry's products are essential for growing food, protecting the safety of our water and food supply, producing energy, and making life-saving medicines and equipment. From farms to factories, more than 25 percent of the U.S. economy and 4.2 million jobs depend on chemistry. We ship chemicals because the country needs these essential products to support virtually every aspect of daily life.

## **Rail Safety**

Safety is a shared responsibility between railroads, shippers, and equipment suppliers, and is governed by a comprehensive federal regulatory framework. While rail is widely recognized as the safest way to transport hazardous materials by land, ACC supports a multi-layered approach to further advance safety. This includes a range of

measures: first, to further reduce derailments and other accidents; second, to minimize the risk that a rail accident will lead to a hazardous material release; and third, to strengthen emergency response and mitigate the impacts of any incident that does occur.

ACC supports the Subcommittee's bipartisan efforts and believes that the *Railroad Safety Enhancement Act of 2024* (H.R. 8996) and the *Railway Safety Act of 2023* (S. 576) provide a solid foundation to further improve the safety of the national rail network, reduce hazardous material risks, and enhance emergency response capabilities.

The following sections highlight several aspects of the legislation that are particularly important to ACC and its member companies.

### **Improving Tank Car Performance**

Tank car safety is a critical element of hazardous materials transportation safety. Chemical shippers own or lease the rail tank cars used to ship their products and are ultimately responsible for maintaining their fleets. ACC members have made significant investments in recent years to upgrade tank cars and will continue to do so. In particular, they are in the process of upgrading tank cars used to transport Class 3 flammable liquids, replacing cars built to earlier DOT standards (DOT-111 cars) with cars built to newer standards (DOT-117 cars). These cars are used to transport multiple products with a wide range of beneficial end uses, including water treatment and the production of food, fuels, pharmaceuticals, and construction materials.

ACC members have plans in place to complete these upgrades by the deadlines Congress established in the FAST Act. And, where feasible, companies are pursuing

accelerated schedules for their fleets. These actions require significant long-term planning and capital expenditures. Currently, it takes approximately one year from when a car is ordered to receive final delivery.

Overall, approximately 72,000 tank cars used to transport flammable liquids meet DOT-117 or equivalent safety standards. An additional 17,000 still require upgrades.

The current deadline for Packing Group II and III flammable liquids (the lowest hazard groups) other than unrefined petroleum products and ethanol is May 1, 2029. ACC supports establishing an earlier deadline that is consistent with the rail equipment industry's ability to manufacture new cars and retrofit existing cars to meet DOT-117 standards while also meeting demand for construction, maintenance, and repairs of all types of railcars. Current railcar industry data suggests that the earliest potentially feasible deadline would be May 1, 2028.

We believe the *Railroad Safety Enhancement Act* provides a workable approach to setting an appropriate phaseout period. While it accelerates the deadline to December 31, 2027, it also recognizes that an unworkable phaseout timeline could disrupt critical supply chains across the U.S. Therefore, the bill also asks the Government Accountability Office (GAO) to review tank car production capacity and authorizes DOT to extend the timeframe if the Agency determines that the accelerated deadline is not feasible.

### **Supporting Emergency Responders**

ACC supports additional funding for PHMSA's Hazardous Materials Grants Program. The grant program supports emergency response planning and training

activities and is funded by hazardous material registration fees paid by both shippers and transportation carriers. PHMSA's current fee structure currently raises approximately \$23.6 million annually, well below the amount authorized in the Infrastructure Investment and Jobs Act (IIJA).

ACC supports the House and Senate bills' provisions to replace the current \$3,000 statutory limit on registration fees with a two-tiered limit of \$500 for small businesses and \$5,000 for large businesses. This approach would provide flexibility to nearly double the funding of emergency response training programs while preventing a disproportionate impact on small businesses.

### **Railcar Telematics**

ACC also supports provisions of the *Railway Safety Enhancement Act* that assist the development and use of onboard telematics systems for railcars. This technology can be used to provide shippers with better visibility into railcar locations and may help enhance capabilities to monitor railcar conditions and product integrity while in transit. By providing grant funding and establishing a pilot program, the legislation can help achieve additional safety benefits from these technologies.

### **Conclusion**

Shippers, rail carriers, equipment suppliers, and the federal government have made significant progress through a collaborative approach and by using data to drive results. But we can, and must, do more. ACC is committed to working with policymakers and our

transportation partners to apply the lessons learned from the East Palestine derailment so the products of our industry can be delivered safely and without incident.

# Tank Car Manufacturing Capacity

## ACCELERATING THE DOT-117 PHASE-IN

Chemicals are transported by rail because the nation needs these essential products. Rail safety is a shared responsibility that requires a full range of actions – including, but not limited to, upgrading tank cars – to help prevent derailments, reduce the risk of a material release, and mitigate the impacts of an accident.

### 1.6 MILLION

RAIL CARS IN SERVICE

Over 1.6 million rail cars are now in use, mostly owned by shippers and companies that lease them out – not by railroads. The North American fleet has many types of cars, including boxcars, hopper cars, and tank cars.

### 17,000

TANK CARS NEED UPGRADES

Federal rules say that by May 1, 2029, all tank cars carrying flammable liquids (Class 3) must meet new standards. About 17,000 older cars (DOT-111) must still be replaced or upgraded to newer ones (DOT-117) by 2029 as directed by Congress under the FAST Act.

### MAY 1, 2028

EARLIEST POTENTIALLY FEASIBLE DEADLINE

While various proposals have been made to accelerate the current phaseout deadline, available data on tank car manufacturing in North America indicates the earliest potentially feasible deadline to complete all the required upgrades to DOT-111 would be May 1, 2028.

## CHALLENGES

**A premature deadline that ignores manufacturing capacity would create a shortage of tank cars to move materials critical to U.S. energy production and manufacturing.**

- Significant North American tank car manufacturing capacity is already reserved for planned repairs, maintenance, and replacement of other rail cars.

YEAR	2024	2025	2026	2027	2028	2029
OPEN BUILDS & RETROFIT CAPACITY	5,210	5,500	6,000	7,000	8,000	8,000

- Like other industries, rail car manufacturers have faced shortages of materials and workers.
- Building rail cars for specific commodities requires a fair amount of engineering design, regulatory approval, and manufacturing work, so it takes additional time for car manufacturers to switch over operations and ramp up production.

## BACKGROUND



### 6 Production Facilities

Only 6 facilities in North America are authorized to manufacture new rail tank cars, while 23 facilities can modify existing tank cars to the DOT-117R100W standard.



### One Year from Tank Car Order to Delivery

While it takes only about approximately 3-4 weeks to assemble a new tank car, it takes on average a full year from the actual order of a tank car to its final delivery. This accounts for lead times to secure raw materials (currently there is a 6 month lead time for steel); secure certified parts, design, etc.



### Up to \$170,000

A new DOT-117 tank costs \$150,000 to \$170,000.



#### INFORMATION BASED ON DATA FROM RAILWAY SUPPLY INSTITUTE

The Railway Supply Institute (“RSI”) is the international trade association of the railway supply industry. RSI members collectively build more than ninety-five percent (95%) of all new railroad tank cars and own and supply for lease over seventy percent (70%) of railroad tank cars operating in North America.