



---

425 Third Street, SW | Ste 920 | Washington, DC 20024 | phone (202) 437-4664 | fax (202) 347-0047 | [www.rsiweb.org](http://www.rsiweb.org)

April 16, 2014

**Via Electronic Mail**

The Honorable Lisa Raitt  
Minister of Transport  
Transport Canada  
330 Sparks Street  
Ottawa, ON  
K1A 0N5

Re: Proposed Directional Statement Regarding the Transportation of Hazardous Goods by Rail

Dear Minister Raitt:

It was a pleasure meeting you on April 3, 2014. I am writing on behalf of the Railway Supply Institute's Committee on Tank Cars ("RSICTC") regarding the directional statement that your staff has indicated you intend to issue on or before April 23, 2014 ("Directional Statement"). As you may be aware, RSICTC has been in dialogue with Transport Canada ("TC") staff over the last two weeks regarding the scope and substance of the Directional Statement. We share TC's commitment to improve the safety of transporting flammable liquids by rail, and we appreciate your desire to respond in a timely manner to the recommendations made by the Transportation Safety Board of Canada in connection with the Lac Mégantic derailment. As the scope of the Directional Statement has evolved and expanded, some new concerns have arisen and some existing issues have become exacerbated. We write today to formalize our position and to illustrate what we see as some of the potential negative unintended consequences of the Directional Statement

I. There Is a Limited Supply of CPC-1232 Tank Cars

As we understand the proposed Directional Statement, one of TC's ultimate objectives is to ensure that certain dangerous goods being transported within Canada are contained in CPC-1232 compliant tank cars. Critical to accomplishing such an objective is an understanding of the availability of such cars. Today, there are approximately 25,000 CPC-1232 tank cars in service in North America. RSICTC members own approximately 70% of these cars, which are currently fully utilized and dedicated to multi-year leasing agreements with shippers.

An additional 30,000 CPC-1232 compliant tank cars are expected to be built by the end of 2015, resulting in a projected CPC-1232 fleet size of 55,000 tank cars by December 2015. In most cases, these cars have been assigned to specific commercial contracts. With virtually all of the existing and

future build (i.e. through 2015) CPC-1232 tank cars subject to binding sale or lease agreements, there presently is no ready supply of CPC-1232 tank cars to shift to Canadian service, should that become required as a result of the Directional Statement.

## II. Many CPC-1232 Tank Cars Run In International Service Between Canada and the U.S.

By contract, shippers generally are allowed to use the CPC-1232 cars in unrestricted service in Canada, Mexico and the United States. Rarely does a leasing agreement proscribe or restrict use to a particular geographic region. This is consistent with the shipping patterns of our customers. Because these tank cars operate in the North American interchange system, transporting goods between Canada, the United States, and Mexico, it is virtually impossible to identify a discrete subset of this fleet that operates exclusively in Canada.

To provide context, the AAR Rail Time Indicators Report (January 3, 2014) states that in 2013, there were nearly 930,400 carloads of dangerous goods (namely chemicals, petroleum, and petroleum products) that originated in Canada, representing a 9.8% increase since 2012 and a 14.8% increase since 2011. During the same period, nearly 2,252,100 carloads of dangerous goods originated in the U.S. Additionally, RSICTC members estimate that nearly 36,850 of all tank cars (including CPC-1232 cars) transporting Class 3, flammable liquids traveled in Canada in 2013.

## III. Given the Limited Supply of CPC-1232 Cars, the Directional Statement Should Prioritize Commodities in the Highest Risk Service

As mentioned during our April 3 meeting, RSICTC respectfully recommends that TC focus first on crude oil, followed by ethanol. Those commodities pose the highest risks, as large volumes of these materials are moved in unit trains. Such a focus would allow the limited availability of CPC-1232 cars to be directed first toward effectively and expeditiously reducing transportation hazards associated with those higher risk shipments. We estimate that there are approximately 52,000 legacy tank cars currently being used to transport crude oil and ethanol in North America. Transitioning that fleet to higher standards through use of CPC-1232 cars and modifying legacy cars under an approved modification program should be the priority. Such a priority would partially remove the current uncertainty and allow car owners to begin taking action to reduce the most significant risks. As the program for transitioning crude oil and ethanol nears completion, priority could then shift to addressing the remaining Packing Group I and II flammable liquids tank cars.

We believe that manifest shipments of flammable liquids are lower risk than unit train shipments. The most serious derailments in recent years, including Lac Mégantic, have involved loss of commodity following the derailment of a unit train. Therefore, we urge you to tailor the scope of the action to focus on materials being transported in unit trains, rather than all shipments, allowing the industry to focus its efforts on transportation methods with the highest risk.

IV. Given the Limited Supply of CPC-1232 Cars, a Directional Statement Covering all Class 3, PG I and II Flammable Liquids In Addition to Certain ERAPable Commodities is Not Feasible

Based on recent conversations with your staff, RSICTC understands that the proposed scope of the Directional Statement will encompass all Packing Group (“PG”) I and II flammable liquids as well as some additional PG III flammable liquids.

Specifically, we understand that the Directional Statement will require all PG I and II flammable liquids, plus all aviation fuel, diesel, gasoline, crude oil, and ethanol (collectively referred to by your staff as “ERAPable products”) to move in a CPC-1232 tank car within three years. Expanding the scope beyond crude and ethanol will substantially increase the number of impacted cars. RSICTC members estimate that the products covered by the scope of the Directional Statement will raise the number of affected legacy tank cars currently in service to 75,000 tank cars. To be clear, this is a conservative estimate, as RSICTC members only account for 70% of tank car ownership. For a more accurate picture, TC would need to consult with shippers and other owners.

Under any scenario, there are, and will continue to be, insufficient CPC-1232 cars to replace all of the non-CPC-1232 compliant tank cars carrying ERAPable products in Canada today. As a consequence, RSICTC is concerned about the larger potential impact the Directional Statement may have on commerce and the citizens and businesses of Canada. RSICTC members’ customers include: AFD Petroleum, Altex Energy, Astra, Canexus, Cenovus, Elbow River, Environmental Refuelling, Gibson Energy, Husky, Imperial Oil, Irving Oil, Plains Midstream, Shell Canada, Suncor, Torq Transloading, and Transit PM. It is not inconceivable that there could be supply disruptions and gasoline and diesel shortages. Moreover, the continued regulatory uncertainty surrounding standards for modifications as well as for new car designs in flammable liquids service, functions as a disincentive for car owners to commit capital to modify or replace cars and therefore further undermines tank car supply.

We understand that TC will take action by April 23, 2014 and therefore strongly urge you to tailor the Directional Statement to prioritize the highest risk commodities. Implementation of broad action will not be feasible and likely will result in negative unintended consequences. We appreciate your consideration of these comments and remain committed to working with TC to develop a viable plan for improving the safe transportation of flammable liquids by rail.

Sincerely,



Thomas D. Simpson  
President

CC: Louis Levesque, Deputy Minister  
Laureen Kinney, Assistant Deputy Minister  
Peter Coyles, Special Advisor to the Director General  
Nicole Girard, Director Policy and Regulatory Services Civil Aviation