



News Release

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THE FEDERAL GOVERNMENT – NOT RAILROADS – MUST REGULATE TIH RAIL SHIPMENTS

ARLINGTON, VA (April 10, 2014) – The [Chlorine Institute](#) (CI) and the [American Chemistry Council](#) (ACC) filed for an injunction to prevent Canadian Pacific Railway (CP) from usurping the regulatory authority of the U.S. Department of Transportation (DOT) through CP's arbitrary, unilateral and illegal imposition of new "rules" regarding tank cars that carry toxic inhalation hazard (TIH) materials. [The Fertilizer Institute](#) (TFI) also joined the complaint, which was filed in the U.S. District Court for the District of Minnesota.

CI President Frank Reiner explained that CP announced on March 12, 2014, without prior warning that on April 14, 2014, it would no longer ship chlorine and other TIH materials in DOT-approved tank cars unless those cars were made of "normalized steel."

The bottom line for TIH shippers and the nation is that "it is up to DOT – not the railroads – to specify the appropriate rail package for commodities of a particular hazard," Mr. Reiner said. He cited DOT's own views with respect to the Association of American Railroads Tank Car Committee (TCC), published in 2008:

"DOT benefits greatly from the technical expertise of the TCC members. However, final policy judgment lies with DOT, and only DOT is authorized to approve a new tank car specification, or, through issuance of a special permit in accordance with 49 CFR 107.101-127, the construction and use of a tank car not meeting an existing DOT specification."¹

Railroads are a proven, safe and reliable mode for transporting hazardous materials including TIH materials. According to the Association of American Railroads, "99.998 percent of rail hazmat shipments reached their destination without a release caused by a train accident."

¹ 73 Fed. Reg. 17825; Apr. 1, 2008.



As part of the ongoing process of continuous safety improvement, new TIH cars built since 1989 are constructed of steel that is “normalized,” a process designed to make steel less brittle at lower temperatures. To date, these cars represent approximately 79 percent of the overall chlorine fleet. Significantly, all cars currently in use meet existing DOT safety requirements, Mr. Reiner explained, and “CP’s action, in effect, unilaterally bans otherwise legal and safe rail shipments.”

“Over the years, railroad executives have publicly stated they do not wish to carry TIH shipments and only do so because they are required to by law. However, the nation needs these materials,” Mr. Reiner said. Similarly, DOT has stated, “TIH materials are essential to the economy and national health, [and] rail movement of these materials is extremely safe.”

“CP’s decision blindsides the chemical industry and has ramifications for America’s public health, agriculture, pharmaceutical, construction, defense, and manufacturing sectors, all of which depend on TIH shipments,” said Tom Schick, ACC’s Senior Director of Regulatory and Technical Affairs.

“CP’s action will disrupt decades of shipper-railroad cooperation on safety,” Mr. Reiner noted. CI, ACC, TFI and the railroads are equally concerned about safety and work closely with DOT to develop improved tank cars. In fact, CI and ACC have been part of the Association of American Railroads Tank Car Committee process since 1935, working together to continuously improve the safe transportation of chlorine by rail.

CI and ACC have asked for expedited judgment of its petition to ensure there is no disruption to the industry’s customers and the millions of Americans who rely on them.

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www.chlorineinstitute.org

The Chlorine Institute (CI), founded in 1924, is a technical trade association of companies that are involved in the safe production, distribution and use of chlorine, sodium and potassium hydroxides and sodium hypochlorite, and the distribution and use of hydrogen chloride.

www.americanchemistry.com/newsroom

The American Chemistry Council (ACC) represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people’s lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$770 billion enterprise and a key element of the nation’s economy. It is one of the nation’s largest exporters, accounting for twelve percent of all U.S. exports. Chemistry companies are among the largest investors in research and development. Safety and security have always been primary concerns of ACC members, and they have intensified their efforts, working closely with government agencies to improve security and to defend against any threat to the nation’s critical infrastructure.

