



**CHEMISTRY INDUSTRY
ASSOCIATION OF CANADA**

Review 2017-18 of the Railway Safety Act

**September
2017**



**SUBMISSION TO
The Rail Safety Act Review Panel**



CHEMISTRY INDUSTRY ASSOCIATION OF CANADA

The Chemistry Industry Association of Canada (CIAC) is the voice of Canada's \$53 billion chemistry industry and represents more than 50 members and partners across the country.

Members of CIAC are signatories to Responsible Care[®] – the Association's U.N.-recognized sustainability initiative. Responsible Care inspires its members to take actions that improve the sustainability of their operations and reduces harm throughout the entire life cycle of their products.



➤ Introduction

The Chemistry Industry Association of Canada (CIAC) applauds the Railway Safety Act Review Panel's recognition of interrelated elements of rail transportation and the wholistic approach being taken to incorporate expertise from the various stakeholders to advance safe rail transportation across the country. CIAC shares the view that there are many stakeholders with roles and responsibilities in ensuring and enhancing rail safety.

CIAC has a longstanding commitment to transportation safety and safety management systems. Through the Responsible Care® initiative our industry has over 35 years of experience with safety management systems and dedication to striving for continuous improvement. CIAC welcomes the opportunity to submit its comments on the *Railway Safety Act Review* and commends the important work of the Panel. Key areas the submission will cover include safety management systems, data transparency and availability, the importance of harmonization, engagement with communities, labour issues, technology and sustainability.

- **Our Industry**

Canada's chemistry industry is an important contributor to our nation's economy. It converts and adds value to raw resources such as natural gas, crude oil, minerals, and biomass, creating intermediate products that are used as inputs in other areas of the industry, and by almost all other manufacturing sectors. Shipments in 2016 were \$53 billion, making chemicals Canada's third largest manufacturing sector; exports were \$39 billion, second only to the automotive sector. The chemistry industry is our country's seventh largest manufacturing employer, directly responsible for 86,700 jobs and supports an additional 520,000 jobs in other sectors.

CIAC members produce goods that are essential to the quality of everyday life, and to the Canadian economy. This includes hundreds of dangerous goods that are shipped across Canada daily, two examples are: chlorine, used to purify drinking water for millions of Canadians; and, sulphuric acid, used to manufacture agricultural fertilizers, synthetic fibres, batteries and pharmaceuticals (including chemotherapy drugs). In addition, the chemistry sector is the single most important solutions provider to the climate challenge.

- **Rail is Critical to the Chemistry Sector and the Economy**

Canada's chemistry industry comprises only one per cent of the \$5.2 trillion global industry, and we must work hard to attract international investment. The chemistry sector depends on safe, effective, efficient, cost-competitive rail service. Canada's chemistry industry makes three-quarters of its annual shipments by rail. Chemicals account for 13.7 per cent of all Canadian rail traffic. For many chemicals, rail has proven to be the safest mode of transportation. Safety is a top priority for Canada's chemistry industry, both at plant sites and along transportation routes. During the past 25 years, CIAC members have invested hundreds of millions of dollars in transportation-related research and upgrades; and have set the gold standard for transportation safety through the TRANSCAER® (Transportation Community Awareness and Emergency Response) and TEAP® III (Transportation Emergency Assistance Program) initiatives.

Canada has a world-class transportation system; however, ongoing collaborative efforts amongst all stakeholders is important in striving for continuous improvement in the area of rail safety and security. In the remainder of this submission CIAC will offer comments directly linked to the questions outlined in the Panel's Consultation Guidance Document.

CIAC Comments on Key Questions Outlined by Railway Safety Act Review Panel

➤ Overall Provisions of the Railway Safety Act Including Roles and Responsibilities

As was noted in the guidance document, collaboration and shared responsibilities for railway safety are key characteristics of the Act. Additionally, the Act also allows for the development of both Minister-mandated and railway-initiated rules for railway operations and maintenance. While various industries have their areas of expertise it is important the multiple stakeholders work collaboratively and transparently to enhance the overall system.

CIAC commends the Government's numerous and ongoing efforts to advance rail safety. CIAC sees Government playing a key role in establishing standards, promoting compliance, investing in safety improvements (infrastructure, awareness, culture building), partnering and supporting industry efforts such as TRANSCAER® and Operation Lifesaver, and recognizing and rewarding excellence. Additionally, CIAC encourages a risk-based approach to decision making and focus on key areas where significant improvements could be realized.

An area that CIAC would like to recognize that helps foster this collaboration and engagement is the *Advisory Council on Railway Safety*. While CIAC is not an active participant in this forum CIAC has a longstanding history of supporting the Minister's *General Policy Advisory Council on the Transportation of Dangerous Goods* and sees significant value in the process. This important forum is a key venue for collaboration and enhancing initiatives that promote and support the safe transportation of dangerous goods. Key to its success are ongoing and deliberate engagement and dialogue fostered in the system as well as the efforts to ensure an accurate representation of the various stakeholders with roles and responsibilities for the safe transportation of dangerous goods. This includes representatives from Transport Canada, municipalities, the provinces/territories, First Nations, other federal departments, labour, industry, etc...

➤ Adoption of Safety Management Systems and Safety Culture

CIAC has long been a proponent of the critical role safety management systems play in managing risk. CIAC's Responsible Care initiative is our industry's commitment to sustainability, the betterment of society, the environment, and the economy. These commitments are verified on a three-year cycle and made publicly available.

While Responsible Care was started by chemical manufacturers it has successfully been implemented along the chemistry value chain, including the two Class 1 rail carriers in Canada. We believe increased

participation in a proven industry initiative such as Responsible Care, or its equivalent, could help short-lines realize enhancements in safety management systems and safety culture.

In CIAC's experience for safety management systems to be effective and for a robust safety culture to be present a commitment from senior leadership and employees throughout to company is required. If only present at the executive or operational level its sustainability will be challenged.

Responsible Care, through its accountability and stewardship codes brings a level of transparency and engagement with the community and first responders that can offer an additional level of assurance that transport safety concerns have been addressed up front and that the proper safety contingencies are in place in the event of an incident.

Additionally, CIAC believes that while regulations and minimum acceptable performance are important - excellence in safety management is driven by safety management systems and a culture of performance excellence and continuous improvement.

› Quality and Use of Performance Data for Risk Management

CIAC promotes a risk-based approach to decision making and believes that emphasis needs to be placed on areas where there are incidents such as at level crossings, trespassing, loadings/unloading etc...Furthermore, CIAC believes accurate and transparent information is key to supporting sound decision making and that this is an area that can be strengthened. CIAC is encouraged by the Government and Transport Canada's commitment to put in place "a new data regime to support evidence-based decision-making by government and all stakeholders that is available to all who operate, oversee, analyze and use the transportation system." CIAC believes Transport Canada has correctly identified the key to achieving this by having more confidential carrier data submitted to the Canadian Transportation Agency and Transport Canada for policy and regulatory purposes and by making publicly available more data and metrics on performance, service, and rates. While there are aspects within the currently proposed *Bill C-49, Transportation Modernization Act* that move in the direction of increased transparency of information, there are also areas that are concerning particularly regarding the timeliness and availability of data.

› Ability to Respond to Industry Trends

1. Economic

CIAC is working to promote the development of a robust chemistry sector in Canada. If able to win a fraction of the already announced 250\$ billion in projected investments in North America, it will remain key to have a rail network and system with the flexibility and capacity to support rapid growth.

CIAC members have been facing issues related to population growth and route planning for decades. Uncertainty in rail access and service challenge a company's competitiveness and sustainability in the local community and the input into the Canadian economy in general. In examining these issues, a long-term, transparent, engaged, dialogue amongst all the impacted stakeholders is required.

2. Infrastructure

CIAC is supportive of programs that target funding for shared capital investments and capacity building for short-lines as they play an integral role in the Canadian network and help move many of our member's products to market. CIAC also promotes measures that will incentivize further investments. CIAC is a vocal proponent of incentives such as the accelerated capital cost allowance (ACCA), which bring immediate direct benefits to the local, provincial, and Canadian economy as capital is being invested and new construction jobs are being created with long term benefits.

3. Technological

CIAC believes technology has a key role to play in the advancement of rail safety in Canada and commends the Government's efforts to enhance in-cab video and data gathering. The chemistry sector is committed to being an innovative solutions provider and believes key consideration in investing in various technologies include costs and links to increased safety. Additionally, the Canadian context, landscape, and network realities must be considered in relation to various possible new technologies.

4. Labour

The Government has a role to play in determining industry standards and adopting best available practices and technologies. CIAC has seen a wide range of tools and practices adopted by the road transportation industry to address human factors such as fatigue management, monitoring, distraction avoidance, conformance, impairment, and encourages this for the rail sector as well.

Additionally, in a recent survey of CIAC members, 80 per cent were captive shippers – only receiving service from one railway. Labour disruptions that lead to shutdowns in operations pose a safety, security, and economic risk to companies. CIAC believes that for enhanced safety and security measures be taken to ensure that a complete network stoppage in service be avoided. In the United States rail is considered an essential service. CIAC encourages a similar discussion take place in Canada.

➤ Relationship Building and Coordination

1. Federal – Provincial Interface

The importance of harmonization amongst federal and provincial jurisdictions is important for those operating industrial railways. It is important the expectations and regulations in this sphere are clear and that stakeholders are engaged in proposed changes to avoid duplication of efforts or unnecessary differences that do not enhance rail safety.

2. Proximity/Railway – Municipality Interface

CIAC has long advocated for stronger Government action on proximity guidelines, separation, and buffer zones. CIAC believes a risk-based approach in decision making is critical and that a wholistic view is required in addressing proximity issues. CIAC also stresses the importance of working to ensure Government's various priorities be balanced to avoid situations where a focus on urban or green transit work against rail safety initiatives.

Additionally, since 1985 CIAC has been committed to Responsible Care and TRANSCAER®. CIAC encourages a more formal partnership between Transport Canada and TRANSCAER® in reaching out to communities to help ensure they are knowledgeable about rail safety are aware of the transportation of dangerous goods, and prepared should there be an incident. In the United States, a granting program to support the work of TRANSCAER® by the *Federal Railroad Administration* is already in place.

3. *Canada and USA Coordination*

CIAC is very supportive of the work Transport Canada has been doing through both the TDG and *Rail Safety Working Group* with the *Canada-US Regulatory Cooperation Council*. In particular, we appreciate the important work that has been done on tank car standards and various other harmonization efforts.

4. *Promoting Railway Security*

CIAC is supportive of Transport Canada's *Surface and Intermodal Security Group's* work proposing new *TDG Security Regulations* that would align closely with U.S. requirements. Additionally, as there are numerous consultations and initiatives currently underway CIAC stresses the importance of communication amongst the various directorates within Transport Canada, and well as other federal and provincial government departments to strive to ensure there is not duplication, misalignment, or unnecessary burden on shippers and carriers as regulations are introduced or amended.

➤ Conclusion

CIAC commends the Government's active work and continuous efforts to enhance rail safety. The industry views Government as playing a key role in establishing standards, promoting compliance, investing in safety improvements (infrastructure, awareness, culture building), partnering and supporting industry efforts, and recognizing and rewarding excellence. In working to enhance rail safety CIAC encourages a risk-based approach to decision-making and a focus on key areas where significant improvements could be realized. While regulations and minimum acceptable performance are important - excellence in safety management is driven by safety management systems and a culture of performance excellence and continuous improvement. CIAC appreciates the opportunity to engage with the Panel through this submission and various roundtables to be held across the country this fall.



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Responsible Care[®]
Our commitment to sustainability.
