

NATIONAL TRANSPORTATION SAFETY BOARD
(NTSB)

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NTSB RAIL TANK CAR SAFETY

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ROUNDTABLE DISCUSSION

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WEDNESDAY
JULY 13, 2016

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The Roundtable met in the NTSB Board Room and Conference Center, 490 L'Enfant Plaza East, SW, Washington, DC, at 9:00 a.m., Robert Sumwalt, NTSB Member, presiding.

PRESENT

ROBERT SUMWALT, Member, NTSB
ANDREAS AEPPLI, Cambridge Systematics
KARL ALEXU, Federal Railroad Administration
ANDY ASH, Railway Association of Canada
WILLIAM BATES, SMART Transportation Division
ROB BENEDICT, Pipeline and Hazardous Materials
Safety Administration
JOHN BYRNE, Railway Supply Institute
KELLY DAVIS, Renewable Fuels Association
KENNETH DORSEY, Association of American
Railroads
GABE CLAYPOOL, Dakota Plains Holdings
ROBERT FRONCZAK, Association of American
Railroads
HAL GARD, Oregon Department of Transportation
RACHAEL GUNARATNAM, NTSB
ROBERT HULICK, Trinity Rail
DENFORD JAJA, Hess Corporation
GREG JOHNSON, Wells Fargo Rail
RICHARD KLOSTER, Alltranstek
MANUEL KOTCHOUNIAN, Transportation Safety Board
of Canada
SUZANNE LEMIEUX, American Petroleum Institute
LEONARD MAJORS, PHMSA
ADRIAN MORGAN, GBW Railcar Services
KEVIN NEELS, The Brattle Group
GREG SAXTON, Greenbrier Companies, Inc.
PAUL STANCIL, NTSB
BEN SUPKO, Pipeline and Hazardous Materials Safety
Administration
JOHN VORDERBRUEGGEN, NTSB
DAVID WILLAUER, Cambridge Systematics

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C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

(9:01 a.m.)

MEMBER SUMWALT: Well, good morning and welcome to the NTSB. I'm Robert Sumwalt and as a member of the NTSB it's my pleasure to welcome you to this roundtable on rail tank car safety. Thank you for being here. Also joining us this morning, I'd like to introduce the members of the team who planned and organized this event.

We've got Nicholas Worrell, who is the Chief of the NTSB Safety Advocacy Division, Paul Stancil, Senior Hazardous Materials Accident Investigator, Rachael Gunaratnam, Hazardous Materials Accident Investigator, and John Vorderbrueggen, who is the Chief of the NTSB's Hazardous Materials and Pipelines Investigations Division.

So why are we here? Well, as we all know, a few years ago North American began producing enormous amounts of ethanol, crude oil, and crude oil -- ethanol, and then the crude oil production skyrocketed, and that's the good news. Ethanol needed to be transported to and from diverse locations across the continent, and crude oil had to be moved from new points of origin to distant refineries along routes where traditional pipeline infrastructure did not

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1 exist.

2 The railroads stepped into the resulting
3 transportation gap, rapidly transforming themselves
4 into rolling pipelines. Well, thousands of DOT-111
5 general purpose tank cars were pressed into service to
6 meet industry demand to transport these flammable
7 liquids. However, major train derailments involving
8 the DOT-111 tank cars have demonstrated that this tank
9 car is prone to catastrophic breach during derailment.

10 Well, the transportation gap was solved, but
11 a safety gap emerged. Well, naturally, with the
12 exponential growth in shipping flammable liquids, there
13 comes a corresponding increase in risk. To mitigate
14 these risks, we need a holistic approach.

15 First, we need to keep the trains on the
16 track. We need to keep them from derailing, but if a
17 derailment does occur, we need to contain the liquid in
18 the tank car. And finally, if there is a derailment
19 and spill, we need adequate emergency response.

20 While each of these elements is critical to
21 improving rail tank car safety, today's roundtable will
22 only focus on the second of these elements, keeping the
23 flammable liquids from spilling by using more crash-
24 worthy tank cars. The reason we're focusing on the
25 tank car safety today is because of the developments in

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1 the past year.

2 Last May, the DOT formulated sweeping
3 changes for the carriage of flammable liquids by rail,
4 known as HM-251. And then in December, Congress took
5 additional measures when they passed the Fixing
6 America's Surface Transportation Act, or the FAST Act.
7 The bottom-line is, is that the DOT rule and the FAST
8 Act call for a phase out of the DOT-111 tank cars,
9 including a slightly improved version of the 111 known
10 as the CPC-1232 cars when used in transporting
11 flammable liquids.

12 The new cars must be placed with a newly
13 designed, more robust tank car, the DOT-117. The phase
14 in deadline for replacing the less robust tank cars
15 extends more than 13 years, from 2018, to 2025 for
16 crude and ethanol, and to 2029 for all other Class-III
17 flammables. Today, we plan to discuss the industry's
18 progress towards meeting those deadlines.

19 Now, in the past decade, there have been 28
20 significant accidents in the US and Canada involving
21 flammable liquids transported by rail, in which nearly
22 5 million gallons of crude oil and ethanol have
23 spilled. In each of these accidents, legacy DOT-111s,
24 or CPC-1232 tank cars, were used to transport these
25 flammable liquids. Included in this figure is the

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1 tragedy that occurred three years ago at Lac-Megantic,
2 Ontario, or Quebec, excuse me, in which claimed 47
3 lives and literally leveled a town center.

4 We appreciate the opportunity to have
5 assisted the Transportation Safety Board of Canada, or
6 the TSB, with their investigation of this tragedy.
7 Thank you. And following that accident, the TSB and
8 the NTSB issued several coordinated safety
9 recommendations to mitigate the effects of such
10 disasters.

11 Transporting flammable liquids by rail is a
12 problem that will not get any better until the general
13 purpose tank cars are replaced or retrofitted to the
14 new standards. One goal of the roundtable is to create
15 a sense of urgency to complete this tank car
16 replacement, or retrofit, as soon as possible.

17 The government-mandated deadlines are just
18 that, they're deadlines, but that doesn't mean that we
19 have to wait until those deadlines to complete these
20 vital safety enhancements. Quite honestly, we face an
21 unacceptable risk until this effort is completed. Just
22 do the math. If past performance is any indication of
23 future performance, we're looking at about nearly three
24 accidents each year in the US and Canada where tank
25 cars derail, they breach, we have a significant fire,

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1 or explosion, or leakage into our waterways, our
2 nation's treasures, so there is a sense of urgency.

3 But we all know that the devils in the
4 details, so together -- so today, we have gathered many
5 of the key players in the industry. We want to know
6 what those details are. We want everyone at the table
7 to share your perspectives, share your challenges, and
8 listen to the viewpoints of others, and that's really
9 the purpose of this roundtable, to facilitate a
10 conversation about issues that are critical to ensuring
11 timely implementation of the new safety standards and
12 getting the legacy tank cars out of the flammable
13 liquid service as soon as possible.

14 So we've structured today's gathering to
15 encourage a true flow of information and ideas among
16 the invited participants, the oil and ethanol shippers,
17 the tank car manufacturers and retrofitters, fleet
18 owners, the railroads, the research community, and
19 regulators. Regardless of your affiliation, I know
20 that everybody in this room is a safety advocate and a
21 safety expert.

22 And we've worked with many of you in the
23 past in accident investigations. We've asked for your
24 expertise in those situations, and today, we're calling
25 on your expertise once again.

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1 As Rachael will explain in a few minutes, we
2 will have five discussion topics, each lasting about 45
3 minutes. I'll facilitate the conversation and that's
4 really exactly what I'd like for it to be. I'd like
5 for this to be a conversation. I'll toss out the
6 questions and I hope that you will chime in with your
7 thoughts. Let's have an open, candid dialog.

8 In addition to questions that we have
9 developed here at the NTSB, we'll take questions from
10 the audience, those assembled here in the boardroom and
11 those watching via webcast. We'll pass out index cards
12 for those of you in the boardroom, and for those of you
13 watching online, you may submit your questions to this
14 address, which Diedre has placed up there,
15 railtankcarsafety@ntsb.gov.

16 Remember, if you are submitting questions,
17 and we would love to get your questions, but if you are
18 submitting questions, please remember to keep your
19 questions on the topic of tank cars, not other aspects
20 of rail safety, such as train routing or positive train
21 control. Those are all very important topics, but it's
22 not the scope of this roundtable.

23 In truth, I know that we all share a common
24 goal, safer transport of flammable liquids by rail.
25 We're hoping that by understanding the hurdles to tank

1 car replacement and retrofit, we can better, quickly
2 achieve that goal. I'll now turn it over to Rachael
3 Gunaratnam to summarize important safety information,
4 to go through a few housekeeping items, and begin the
5 discussion. Rachael?

6 MS. GUNARATNAM: Thank you, Member Sumwalt.
7 For safety purposes, please note the nearest emergency
8 exits. There's two right here in the front stage and
9 also one in the back. And you probably notice we only
10 have one escalator, so please take care when you're
11 going back and forth on that escalator.

12 Also, we're expected to have a fire drill at
13 10:00 a.m. Please ignore that. Normally we don't, but
14 we won't be doing that here. And also, if you have not
15 done so, please silence your electronic devices.

16 I would first like to start by thanking our
17 panelists and audience members for joining us today for
18 an important discussion on rail tank car safety. I
19 would like to open this discussion to explain why we
20 are here today. As Member Sumwalt mentioned, the NTSB
21 identified 28 significant rail accidents involving
22 flammable materials in the last ten years, ten of which
23 NTSB investigated.

24 These accidents have led to the evacuation
25 of hundreds of people and released over 4.6 million

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1 gallons of materials into the environment. Featured
2 here are some recent accidents that have involved unit
3 trains of flammable materials. We continue to
4 investigate these type of accidents and currently have
5 three open investigations.

6 In the past year, the NTSB has investigated
7 a crude oil accident in Heimdal, North Dakota and an
8 ethanol accident in Lesterville, South Dakota. From
9 these investigations, the NTSB has identified major
10 safety issues that include railroad operation, such as
11 flammable liquid route selection and track integrity,
12 and shipper responsibility, such as proper
13 classification of flammable materials, emergency
14 response planning and capability, and training, and
15 DOT-111 and CPC-1232 crash worthiness.

16 However, for the purpose of this roundtable,
17 the discussion will focus on the progress and outlook
18 for replacing and retrofitting the existing fleet of
19 DOT-111 and CPC-1232 tank cars with the new
20 specification DOT-117 tank car that includes puncture
21 and thermal resistance and fitting protection, all of
22 which is intended to provide improved crash worthiness
23 and accidents.

24 The NTSB has issued a number of
25 recommendations to the Pipeline and Hazardous Material

1 Safety Administration, PHMSA, to improve the crash
2 worthiness of the tank cars used to ship all flammable
3 liquids. Summarized here are recommendations that call
4 for enhanced head and shell puncture resistance,
5 redesign of the bottom outlet valves to remain closed
6 during an accident, thermal protection for tank cars
7 transporting flammable liquids, and appropriately-sized
8 pressure relief devices to optimize performance under
9 fire conditions.

10 In addition to these recommendations, the
11 NTSB has made rail tank car safety a priority in its
12 mission. Every year, the NTSB announces its most
13 wanted list to the public, listing its top safety
14 issues in all transportation modes. The 2015 most
15 wanted list included rail tank car safety.

16 The focus was to require a stronger tank car
17 with better accident performance that reduces the
18 probability of releases. During 2015, PHMSA issued a
19 new regulation and Congress passed the FAST Act, both
20 requiring a stronger, more robust tank car for
21 flammable liquid service.

22 The May 8, 2015 PHMSA regulation, HM-251,
23 titled, Enhanced Tank Car Standards and Operational
24 Controls for High Hazard Flammable Trains, required a
25 new, more robust tank car for certain trains carrying

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1 crude oil and ethanol. The FAST Act, enacted in
2 December 2015, supplemented some of the requirements of
3 the PHMSA regulation.

4 Among its many mandates, the FAST Act
5 requires tank cars meeting specification DOT-117 for
6 all flammable liquids. The Act also requires the use
7 of ceramic blankets for thermal protection and top
8 fittings protection for all retrofitted tank cars.

9 The NTSB continues to promote tank car
10 safety in an effort to ensure timely implementation of
11 these new safety measures and has kept it on this
12 year's most wanted list. The new specification DOT-117
13 tank car requires a full head shield and thicker tank
14 shell for puncture resistant, a tank jacket and thermal
15 -- I'm sorry, can we go back to Slide 8?

16 All right. I believe we also have the
17 slides in front of you. Unfortunately, the webcast
18 will not be able to see the slide show. So if you
19 could turn to Slide 8, so the new specification DOT-117
20 tank car will include a full head shield and thicker
21 tank shell for puncture resistance, a tank jacket and
22 thermal protection for fire resistance, and top
23 fittings protection and a redesigned operating handle
24 on the bottom outlet valve to protect against releases
25 in an accident.

1 The FAST Act also requires a phase out
2 retrofit schedule for tank cars in flammable liquid
3 service. It is organized by tank car type and
4 commodity being transported. Crude oil tank cars are
5 first to be addressed, then ethanol, and finally, all
6 other flammable liquids. In the chart that you see
7 before you, there's crude oil shipped in CPC-1232
8 jacketed tank cars that have recently been seen in rail
9 accidents can be used without alteration until May 1,
10 2025.

11 The NTSB also issued two recommendations
12 urging PHMSA to develop an implementation schedule with
13 intermediate milestones and public reporting. These
14 recommendations are intended to encourage the prompt
15 replacements and retrofits of the existing DOT-111 tank
16 car fleet with the new specification DOT-117 tank car.

17 However, to date, PHMSA has not published
18 milestones that would encourage timely implementation
19 of fleet upgrades and replacements. These intermediate
20 reporting mechanisms are important to know industry's
21 progress in complying with the FAST Act schedule,
22 especially in light of current energy market
23 conditions.

24 Data from the Energy Information
25 Administration shows that the number of crude by rail

1 shipments have significantly declined over the past 12
2 months. However, total U.S. crude oil production has
3 dropped only slightly since its peak in 2015.

4 In comparison, EIA data shows that ethanol
5 production in shipments have remained relatively steady
6 over the past five years. This leads to questions of
7 how current energy market conditions are influencing
8 tank car utilization. This includes the continuing use
9 of the DOT-111 tank car and the status of retrofitting
10 and replacing them with the new specification DOT-117.

11 And now I would like to introduce Manuel
12 Kotchounian with the Transportation Safety Board of
13 Canada.

14 MR. KOTCHOUNIAN: Thank you, Rachael.
15 Shortly after Lac-Megantic three years ago, the TSB
16 issued a series of recommendations, which included one
17 calling on the regulators to improve the robustness of
18 the DOT-111 tank cars. Since then, we investigate four
19 accidents involving flammable liquids in DOT-111 tank
20 cars, including the two Gogama, Ontario derailments.

21 These accidents further highlight the risks
22 posed by the DOT-111 tank cars. In these accidents,
23 over 70 CPC-1232 cars carrying flammable liquid
24 derailed, including less than ten that were jacketed
25 and insulated. A tank car damage assessment and

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1 performance review was conducted by the TSB lab, in
2 particular, the performance of the jacketed CPC-1232
3 cars was compared to the non-jacketed cars in these
4 accidents.

5 While the board's findings have not yet been
6 communicated, field observations suggest that although
7 jackets are known to generally help tank car crash
8 survivability, any additional impact resistance
9 afforded by the jacket did not prevent shell punctures
10 for the conditions the prevailed in these accidents.

11 And there was insufficient data to establish
12 whether the jacketed and insulated CPC-1232 cars had
13 better fire survivability than the non-jacketed cars.
14 The investigation's reports are expected in the coming
15 month and will include all the details. Rachael.

16 MS. GUNARATNAM: Thank you, Manuel. Our
17 discussion for today will cover the following five
18 topics; Topic 1, DOT-111 and CPC-1232 retrofit phase
19 out schedule, monitoring and compliance; Topic 2, tank
20 car manufacturing and leasing outlook; Topic 3, tank
21 car shop retrofit logistics and capacity; Topic 4,
22 factors influencing tank car owner decisions to
23 purchase new DOT-117 tank cars and retrofit or retire
24 their existing fleets; Topic 5, path forward to
25 implement the new tank car safety standards.

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1 Member Sumwalt, this concludes our
2 presentation.

3 MEMBER SUMWALT: Rachael, thank you. Sorry
4 your presentation was interrupted, but that was still a
5 great job. I'd like to turn it over to Paul Stancil,
6 who has an announcement concerning a couple of NTSB
7 safety recommendations.

8 MR. STANCIL: Thank you, Member Sumwalt.
9 Yesterday, we notified PHMSA by letter that we are
10 closing safety recommendations, R-12-5 and R-12-6,
11 which were issued a result of our investigation of the
12 June 2009 derailment in Cherry Valley, Illinois. The
13 recommendations that Rachael discussed, and these two
14 recommendations in particular, called for tank car
15 puncture resistance, top fittings and bottom fittings
16 protection, and cited the unacceptable crash worthiness
17 of general service tank cars.

18 With respect to those issues, our response
19 letter commends PHMSA's regulatory actions,
20 specifically as modified by the FAST Act, new
21 specification 117 cars or retrofits are required for
22 all tank cars carrying flammable liquids, regardless of
23 train makeup, and not only for ethanol or crude oil
24 impacting groups 1 and 2, as we had called for in the
25 recommendation.

1 Ms. Gunaratnam just described the features
2 of the new tank car specifications that address these
3 safety issues and these safety recommendations, and so
4 we have classified them yesterday as closed with
5 acceptable action.

6 There are two other recommendations that we
7 issued following our investigation of the Mount Carbon,
8 West Virginia accident. Those were R-15-14 and R-15-
9 15. Those recommendations call for thermal protection
10 systems for existing tank cars, all existing tank cars,
11 transporting Class-III flammable liquids, and also
12 appropriately-sized pressure relief devices to minimize
13 the likelihood of energetic thermal ruptures and
14 accidents.

15 We urged PHMSA to issue thermal protection
16 regulations in accordance with the FAST Act that would
17 require thermal blankets capable of providing
18 protection from pool fires and torch fires that
19 significantly exceed the current performance standards
20 in the hazardous materials regulations, and pending
21 issuance of final rules that PHMSA is drafting in
22 accordance with the FAST Act, these safety
23 recommendations are now classified open with an
24 acceptable response. Member Sumwalt, that's all I
25 have.

1 MEMBER SUMWALT: Wonderful. I think that's
2 a real success story that we've been able to closeout a
3 couple of those recommendations, so congratulations,
4 PHMSA, on those, so thank you. There you are. Well,
5 why don't we start out by going around the room and
6 introducing yourself, and I'll just pass the mic, and
7 welcome. Hal, welcome from Oregon.

8 MR. GARD: Hi. I'm Hail Gard. I'm the Rail
9 and Public Transit Administrator for the Oregon
10 Department of Transportation.

11 MR. MAJORS: Good morning. My name is
12 Leonard Majors. I'm with the Pipeline Hazardous
13 Materials Safety Administration.

14 MR. SUPKO: Hi. My name is Ben Supko. I'm
15 also with PHMSA, the Hazardous Materials Regulations
16 Division.

17 MR. BENEDICT: Hello. Good morning. My
18 name is Rob Benedict. I'm also with PHMSA and I'm with
19 the Risk Data and Program Management Division that does
20 the regulatory analysis for PHMSA.

21 MR. ALEXY: Good morning. Carl Alexy,
22 Federal Railroad Administration, Office of Safety.

23 MR. DORSEY: Ken Dorsey, Association of
24 American Railroads.

25 MR. FRONCZAK: Robert Fronczak, Assistant

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1 Vice President Environment and Hazardous Materials with
2 the Association of American Railroads.

3 MR. ASH: Andy Ash, Director, Dangerous
4 Goods, Railway Association of Canada.

5 MR. JAJA: Denford Jaja with Hess
6 Corporation.

7 MR. CLAYPOOL: Good morning, Gabe Claypool,
8 President and COO for Dakota Plains Holdings.

9 MS. DAVIS: I'm Kelly Davis, Director of
10 Regulatory Affairs for the Renewable Fuels Association.

11 MR. MORGAN: Adrian Morgan, GBW Railcar
12 Services, Quality Assurance.

13 MR. JOHNSON: Good morning. I'm Greg
14 Johnson, Vice President of Equipment with Wells Fargo
15 Rail.

16 MR. AEPPLI: Good morning. I'm Andreas
17 Aeppli with Cambridge Systematics.

18 MR. WILLAUER: David Willauer, also with
19 Cambridge Systematics, and I chair the TRB's
20 subcommittee on crude oil transportation.

21 MR. SAXTON: Good morning. I'm Greg Saxton,
22 Chief Engineer for the Greenbrier Companies.

23 MR. HULICK: Good morning. I'm Robert
24 Hulick with Trinity Rail out of Dallas, Texas, also a
25 member of the Railway Supply Institute.

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1 MR. BYRNE: Good morning. I'm John Byrne,
2 Vice Chairman of the Tank Car Committee RSI, Railway
3 Supply Institute.

4 MR. KLOSTER: Dick Kloster, Senior Vice
5 President of Alltranstek. We manage of 100,000 tank
6 cars for car owners and provide technical, operational,
7 and strategic consulting for, primarily, tank cars.

8 DR. NEELS: Kevin Neels with the Brattle
9 Group.

10 MR. BATES: I'm William Bates. I'm with the
11 Small Transportation Division District of Columbia,
12 Legislative Director.

13 MR. KOTCHOUNIAN: I'm Manuel Kotchounian
14 with the Canadian Transportation Safety Board.

15 MR. VORDERBRUEGGEN: Good morning. I'm John
16 Vorderbrueggen, Chief, Pipeline and Hazardous Materials
17 Investigations with NTSB.

18 MS. GUNARATNAM: Rachael Gunaratnam, Hazmat
19 Accident Investigator, NTSB.

20 MR. STANCIL: Paul Stancil, Hazard Materials
21 Accident Investigator, NTSB.

22 MEMBER SUMWALT: Thank you all and welcome.
23 And again, I'm Robert Sumwalt, I'll be moderating this,
24 and really, you are the stars of this, and I think by
25 going around the room, we were able to see that we

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1 really do have an all-star group assembled today. So
2 we'll go ahead and start the clock, and not quite
3 ready? Well, anyway, let's -- the first topic that we
4 will cover is the DOT-111 and CPC-1232 retrofit and
5 phase out schedule, and monitoring and compliance of
6 that schedule.

7 We want a progress report on the status of
8 the fleet, of the tank car fleets, used to transport
9 flammable liquids. And I think just to get everybody
10 on the same page, if it's all right with you, when I
11 refer to the legacy DOT-111s, when I say that the
12 legacy 111s, I'm referring to that, the 111 cars that
13 were constructed prior to October the 1st of 2011.
14 When I say the 1232s, I'm referring to the CPC-1232s,
15 and of course, the 117s, referring to the DOT-117s. Is
16 that -- Robert, Bob, am I fairly accurate there?
17 Great. Perfect.

18 I've been struggling with that for a while.
19 So what I'd like to do is, Rachael mentioned this, but
20 we were having audio/visual difficulties at the time,
21 Ben and Karl, if you would, we've got the slide up
22 here, just detail for us once again what those new
23 standards are for the 117 car. So really, I think the
24 HM-251, it really was a joint effort between PHMSA and
25 Karl, and FRA, so we have it -- well, thanks. Jump in

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1 there.

2 MR. SUPKO: All right. This is Ben Supko.
3 Yes, as was mentioned, you know, the first key step to
4 the DOT-117 was the increase in the thickness of the
5 shell to 9/16 of an inch. We also required a full
6 height head shield, 1/2-inch head shield, on the tank
7 car, and then we added thermal protection, and with the
8 thermal protection came an 11-gauge jacket.

9 We also added enhanced top fitting
10 protections and also the bottom outlet valve
11 protection, or removing the handle to ensure that
12 doesn't open during an accident situation. So, you
13 know, that's the basics. Obviously, every tank car can
14 be enhanced in a similar way, but this would be your
15 baseline standard for the DOT-117.

16 MEMBER SUMWALT: Great. And so, Karl, what
17 safety benefits do we anticipate from these
18 enhancements?

19 MR. ALEXY: Well, I think, let's see, going
20 down the list, as we talk about the thicker shell,
21 better material, TC-128, we're hoping for improved
22 survivability of that, being puncture resistance in the
23 tank car. A thermal protection system, really, what we
24 were looking for with that was a system that would
25 achieve the performance standard that's in the

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1 regulations of 100 minutes in a pool fire to give first
2 responders an opportunity to get in, evaluate, and
3 evacuate as needed.

4 So that system in place is for that reason.
5 The head shield is, you know, again, for additional
6 puncture resistance. You know, the bottom outlet valve
7 is interesting. You know, we find that, you know, we
8 have skid protection, the ARR already has standards for
9 skid protection. That seems to really work out pretty
10 well. In a couple of these incidents we've seen where
11 the valve, or the handle, did not disengage, or it was
12 engaged and opened up.

13 And then there's some instances where there
14 was nothing we could do, where the valve actually
15 sheared off just because it was just unlucky, so that
16 was a tough one; tough to overcome. And top fittings
17 protection, you know, what we see, often, the damage is
18 so extensive, the puncture, and so much material is
19 lost, we didn't look at the top fittings, because not
20 much was lost out of that because of the puncture, but
21 now that we've improved the puncture resistance, top
22 fittings becomes a little bit more critical to prevent
23 that type of damage.

24 MEMBER SUMWALT: Right. And as I understand
25 it, the top fitting protection enhancements was not an

1 HM-251, but they were mandated in the FAST Act, is that
2 right?

3 DR. WILSON: It was required for new cars.
4 So for the DOT-117's retrofit, that it didn't work out
5 as far as the cost benefit analysis for the retrofits.

6 MEMBER SUMWALT: Great. So on the
7 retrofits, it wasn't required in HM-251, however, the
8 FAST Act did come in and require the retrofits to have
9 the new top fittings, is that right, Ben?

10 MR. SUPKO: That's absolutely correct.

11 MEMBER SUMWALT: Great. So let's just go
12 through this. So we're talking about 9/16 tank
13 material, so that -- from the shell, and that has
14 increased from, depending on the type of steel,
15 anywhere from, 7/16 to 8/16, which is a 1/2-inch, of
16 course, or now it's up to 9/16, is that correct? And
17 so it's -- great.

18 Now, Karl, you mentioned thermal protection,
19 and I hear a couple terms tossed around. I hear
20 thermal insulation and I hear thermal protection, so
21 outline for us the differences in each of those.

22 MR. ALEXY: SO insulation on certain cars,
23 you know, that's a specification requirement, and
24 that's really intended to keep materials warm or cold,
25 so those materials that are loaded hot, you want to

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1 keep it hot, you put insulation or, you know, you don't
2 want it to overheat. Thermal protection is intended to
3 prevent major losses from a tank car, except for
4 through the pressure relief device, in exposure to pool
5 fire conditions.

6 MEMBER SUMWALT: Let me ask you this, when
7 the 117s start being built, are there DOT-117 tank cars
8 that do not have thermal blankets?

9 MR. ALEXY: I'd have to defer to the
10 builders, but I believe that they're all being equipped
11 with the ceramic fiber blankets.

12 MR. BYRNE: Yes, the new 117 cars are being
13 built with thermal protection; thermal blankets.

14 MEMBER SUMWALT: With thermal blankets. And
15 basically, I think that's about 1/2-inch ceramic layer
16 around the shell?

17 MR. BYRNE: Yes, around the tank.

18 MEMBER SUMWALT: Robert, did you want to
19 comment on that?

20 MR. HULICK: Yes, and all the car -- every
21 DOT-117 has a jacket and a ceramic fiber blanket as
22 constructed. There are some of those cars that also
23 have the insulation that Karl mentioned, which is for
24 temperature control of the product being transported.

25 MEMBER SUMWALT: Great. So the 117s, they

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1 have 9/16 shell, they have 11-gauge, which is about
2 3mm, jacket, they have thermal protection, which is a
3 1/2-inch ceramic blanket around the shell.

4 MR. HULICK: Right. A blanket. That's
5 correct.

6 MEMBER SUMWALT: Blanket. 1/2-inch head
7 shields, full-height head shields, better bottom outlet
8 protection to keep the handle, and I think in Cherry
9 Valley, we saw where, and in other accidents, we've
10 seen where the bottom outlet valve has opened up and
11 then better top fittings. Is that the --

12 MR. HULICK: I might add to that, you know,
13 the handle, the new requirement is for what we call a
14 positive-engagement handle. So you have to physically
15 engage the handle before it will operate the valve. In
16 prior applications, the handle would be attached to the
17 valve, and in some circumstances, under derailments,
18 the handle was turned and inadvertently opened the
19 valve, so that's the key difference is, you have to
20 physically engage to operate the handle.

21 MEMBER SUMWALT: Fantastic. Thank you.
22 Now, Bob, let's go to you for the AAR, and I know that
23 you prepared some slides and the slides are in the
24 packet, so I'm going to turn to you and for those of
25 you watching, we're going to project a couple of the

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1 slides that I think you wanted up there, even though
2 we've not asked for presentations, I think some of
3 these graphs might be beneficial.

4 So what I'd like for you to do is outline
5 the tank car, the tank car fleet, what it currently
6 looks like for those cars carrying flammable liquids,
7 for the non-pressure tank car fleet. So basically,
8 give us an idea of how many legacy 111s are out there,
9 how many 1232s are still in service in flammable
10 liquids, and what the 117 fleet is looking like,
11 including the 117Rs, which, the 117Rs are those -- the
12 1232s that have been retrofitted, I believe, to meet
13 the current 117 standards, is that true?

14 MR. FRONCZAK: Yes. And if I could, I would
15 like to explain the philosophy behind the
16 implementation deadlines in the FAST Act, because
17 industry felt very strongly that we should address the
18 things that are being transported in the highest
19 quantity first, so that was crude oil, wanted to
20 address materials shipped in the least crash-worthy
21 container, so address the non-jacketed 111s first,
22 jacketed 111s second, non-jacket CPC-1232s third, and
23 then the jacketed CPC-1232s.

24 So we went crude oil, the largest flammable
25 liquid, again, shipped in unit trains, or very large

1 blocks, so that was what we wanted to address first,
2 ethanol was second, and again, those are shipped in,
3 sometimes, unit trains, but also very large blocks, and
4 then third, we wanted to address the other flammable
5 liquids, which are shipped in small blocks, or onesies,
6 twosies, so the risk associated with those commodities,
7 in our opinion, was a lot less.

8 The DOT-111 has the highest conditional
9 probability of release in an accident, followed by the
10 non-jacketed DOT -- or jacketed 111, followed by the
11 non-jacketed CPC-1232, followed by the jacketed CPC-
12 1232, and then the 117 has an 85 percent reduction in
13 risk over the non-jacketed 111, so we're getting a
14 significant improvement in safety with the DOT-117; new
15 117.

16 If you look at this first slide, and I see
17 that it's no longer up there, here you go, there has
18 been a significant reduction in the number of DOT-111
19 tank cars transporting crude oil, nearly 97 percent
20 reduction in the number of DOT-111s, so we've gone from
21 over 18,000 111s in 2013, non-jacketed, to just 576, so
22 the industry has really stepped up to that first
23 deadline and reduced the risk of the transportation of
24 crude oil.

25 Same thing with jacketed 111s, we've gone

1 from 3200-plus to 132, so there's only 708 DOT-111s
2 right now transporting crude oil. Going to the ethanol
3 slide, is next, if you look at ethanol, there hasn't
4 been a big change in that fleet, but you would expect
5 that, given that the deadlines for converting those
6 cars are a lot further off in the distance.

7 And then the third slide -- okay, we're
8 going to the tables now, I see.

9 MEMBER SUMWALT: Yes. So really, I think
10 it's Slide 11, I believe it is, Bob, that you want
11 next. I think.

12 MR. FRONCZAK: Yes, I wanted to go to the
13 actual line diagrams if we could, but again, with the
14 other flammable liquids, there hasn't been a whole heck
15 of a lot of change in that fleet, but again, those are
16 the cars that are way down into the, you know, 2025 to
17 2029 timeframe, and those will be the last converted,
18 so, you know, based on what I see today, I think that
19 the industry has a pretty good opportunity to meet the
20 deadlines in the FAST Act.

21 Now, if you look at the number of tank cars
22 meeting the DOT-117 spec, and these are cars as of June
23 30 of this year, there are 8573 DOT-117s and 980 117Rs
24 that are currently in service, so these cars are
25 currently in service, and then there's another 916 117s

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1 and 47 117Rs that are pre-registered in number, so that
2 means there's commitments to buy those cars.

3 The builders have registered them in number,
4 they just haven't made a move yet. And there's also
5 some cars, 120 200W cars, these are pressure cars that
6 shippers are intending to use for flammable liquid
7 service, that have also been constructed, and those
8 cars are capable of being non-pressure and pressure,
9 basically, so it gives a shipper more flexibility.

10 So there has been a pretty large movement
11 towards the 117 cars. Does that answer the questions?

12 MEMBER SUMWALT: Very thoroughly, and thank
13 you, and thanks. So you mentioned conditional
14 probability of release, just real quickly, what is that
15 and how do you go about computing that?

16 MR. FRONCZAK: That's a very good question.
17 The AAR and the Railway Supply Institute are partner on
18 a project called The Tank Car Safety Research and Test
19 Project. That project has been in place since the
20 1970s. We have, I think, over 43,000, 44,000 tank cars
21 that have been damaged in derailments since that time,
22 so we understand very well how cars perform in
23 accidents based on the features of those cars.

24 So if we know the shell thickness, whether
25 it's got a jacket, a head shield, a bottom outlet

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1 protection, top fittings protection, we have a very
2 good understanding of how cars perform in accidents, so
3 that's where we get those conditional probability
4 release numbers.

5 MEMBER SUMWALT: Great. Thanks. And you
6 mentioned that 97 percent -- there's been a 97 percent
7 reduction in the number of 111s making at least one
8 shipment of crude. What's the ethanol business looking
9 like in terms of that?

10 MR. FRONCZAK: Oh, the ethanol business has
11 made very little progress in non-jacketed 111s, but
12 again, if you look at the deadlines for ethanol,
13 there's still plenty of time to get to that fleet. I
14 think the key is, is that, what we're seeing is the
15 highest risk product, crude oil, is seeing a
16 significant reduction in the number of DOT-111 tank
17 cars.

18 MEMBER SUMWALT: Well, let me ask you that,
19 you mentioned the highest risk product, crude oil, but
20 figures that I've seen, and I think it was an FRA paper
21 that said that that ethanol is actually a higher hazard
22 product. What's the deal on that? Karl?

23 MR. ALEXY: I can touch on that. You know,
24 risk, when we talk about risk, you know, it's
25 probability times consequence times vulnerability. You

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1 know, it's true when, you know, crude oil was at its
2 peak, you know, just because there was so much of it
3 moving it was the highest risk. We've seen a drop off.
4 So, you know, maybe that risk calculation changes.

5 Back when, you know, we look at some
6 accidents that had happened prior to, or just after,
7 Lac-Megantic, and we went back and looked through the
8 record, and we found that cars that were involved, and
9 these are DOT-111s, in carrying ethanol and crude oil
10 had a similar number of cars that were punctured,
11 similar number of cars that had high-energy thermal
12 events. Actually, I should take that back, they had
13 the same number of punctures, but all the high-energy
14 thermal events were -- when I say, high energy, I'm
15 talking about when the car was actually broken into
16 pieces, so there were multiple pieces of that car
17 afterwards, they all occurred in ethanol service.

18 So just based on that information alone, you
19 know, we have a number of these cars that open up in
20 thermal tears that ended up in fireballs. And, you
21 know, we've seen that in crude oil and in ethanol
22 service, but again, the real high-energy events, where
23 the car was fractured, occurred in ethanol service.

24 MEMBER SUMWALT: Yes, and it was actually,
25 I'm looking at a paper, a white paper that you

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1 authored, that indicated just that, the data suggests
2 that denatured alcohol may pose a greater risk of
3 explosion than crude oil. So, Bob, how does that
4 square with what you just said?

5 MR. FRONCZAK: Well, I think that it does
6 fit together. I think the key difference between crude
7 oil and ethanol is the fact that crude oil is
8 transported in unit trains, to a large degree, so the
9 probability of a whole bunch of cars being all together
10 in a derailment, and if you have one puncture and a
11 fire, I mean, you can involve multiple cars in a pool
12 fire and have thermal tears.

13 Ethanol is generally not shipped in unit
14 trains. I mean, it's shipped in blocks, so our thought
15 was is that the risk of multiple cars being in a pileup
16 for crude oil was higher than ethanol, but Karl's
17 right, I mean, they do respond similarly if they are --
18 you know, multiple cars are involved in derailments.

19 MEMBER SUMWALT: Well, while we're talking
20 about this, why don't we go ahead and so percentage-
21 wise, what percentage of the flammable liquids are
22 transported by rail; ethanol, crude oil, and all other
23 flammables?

24 MR. FRONCZAK: Yes, if you look at total
25 number of flammable liquids, crude oil is 43 percent of

1 the number of flammable liquids, and this is using 2015
2 as the year, ethanol is 35 percent, and other flammable
3 liquids is 21-1/2 percent, roughly, so again, crude oil
4 has got the highest number of shipments right now.

5 MEMBER SUMWALT: Okay. Let me ask you this,
6 so to follow-up on this, so if the legacy 111s are used
7 primarily in ethanol shipments, and the 2032 cars are
8 used primarily for crude oil shipments, we've got a
9 product that's being shipped in the older tank cars
10 that is, according to Karl, really, the more flammable
11 of those, the higher hazard of those, two products;
12 crude oil versus ethanol.

13 So we've got the product that is more
14 hazardous is being shipped in the older tank cars.

15 MR. FRONCZAK: And again, it has to do with,
16 risk is probability times consequence, and if there are
17 more shipments of a product, the probability is higher.
18 So I think that, ultimately, my thought is that the
19 risk associated with crude oil is higher because,
20 again, it's unit train versus blocks. You know, I will
21 defer to Karl on whether or not it is. You know, there
22 are differences, but the key is, is that the FAST Act
23 has crude oil first, ethanol second, and other
24 flammable liquids third.

25 MEMBER SUMWALT: Who would like to jump in

1 and anybody who would like to talk about that
2 particular topic? Please, John.

3 MR. BYRNE: Just a couple comments. You
4 know, we talked, kind of, specifically about the
5 removal of the DOT-111s, didn't really talk about how,
6 you know, the fleet composition within the existing
7 crude oil fleet has changed. And, you know, back to,
8 you know, conditional probability of release, even
9 though these cars aren't the end game, in terms of the
10 117s, they have improved the safety of the crude oil
11 fleet, generally.

12 And what I'd like to highlight is, if you
13 compare 2013, for example, the crude oil fleet,
14 basically, approximately 37 percent of the crude oil
15 fleet was CPC-2032 cars, where, today, Q1 2016, almost
16 86 percent of the cars in the crude oil fleet are the
17 better designed CPC-1232; the cars that the industry
18 volunteered to make before there was, in fact, a
19 standard.

20 MEMBER SUMWALT: Thank you for that
21 perspective. There's a table that Rachael, was in her
22 presentation that was not shown, and we're going to go
23 ahead and pull it up right now, because this shows the
24 deadlines. We've been mentioning that there's a
25 difference in the deadlines. And so, basically, let's

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1 pull up that table right now.

2 So these are outlined in the -- is there a
3 difference between the FAST Act and the HM-251 on the
4 deadlines? There is. Okay. These are the FAST Act.
5 Okay. So as you see, there's a five-year difference
6 between the phase out for the crude oil -- well, it
7 depends. It's pretty complex, isn't it? Yes.

8 But for all intents and purposes, for
9 ethanol, the 1232 and the legacy cars, are basically
10 the same. It's 2023. Either it's May 1st or July 1st,
11 and so would anybody like to comment on these
12 deadlines? I just wanted the folks in the audience to
13 be able to look at those. David, please, jump in
14 there, and I'll tell you what, we just got word that if
15 you all would just grab those mics and speak into them
16 closely, so make sure we can pick them up well, on the
17 webcast. Please, David.

18 MR. WILLAUER: Well, I'm glad this issue has
19 come up because the TRB is conducting a study right now
20 on the domestic transportation of petroleum, crude oil,
21 ethanol, and natural gas, and they're about halfway
22 through the study. And at the first meeting, we had
23 presentations from industry and government, and Kelly
24 was kind enough to give us a picture of the ethanol
25 distribution in the U.S.

1 We saw a crude oil map and an ethanol map of
2 the distribution by rail in the U.S. And there was
3 some remarkable similarities in that crude oil is
4 transported throughout the U.S. because of the location
5 of the refineries and the refineries that were looking
6 for the Bakken crude oil, East and West Coast
7 refineries, as opposed to Gulf Coast refineries, and
8 then ethanol is primarily produce in the Midwest and
9 transported to all the major urban areas around the
10 country.

11 So I did find it interesting to note that
12 while the volumes of crude oil have dropped of
13 remarkably, mostly due to market reasons, ethanol
14 really has not. If anything, ethanol volumes are
15 increasing.

16 MEMBER SUMWALT: Great. Thanks so much. I
17 want to move now to talk about the deadlines and how
18 the regulators might monitor those deadlines. So, you
19 know, as we just saw in the table, there's various
20 deadlines. There's 2018, 2020, 2023, 2025, and
21 finally, 2029. So they're all outlined in the FAST
22 Act. So I'll ask PHMSA, whether it's Rob or Ben, and
23 also -- and, Karl, maybe you can jump in there as well,
24 how -- first of all, are there any informal milestones
25 that have been established by the regulator to check

1 compliance?

2 MR. SUPKO: Well, the first date, the
3 January 1, 2018, right around that one, that's kind of
4 a check of status, a check of status of where you are.
5 Are you going to meet your dates established in HM-251?
6 The difference now is we have the FAST Act, right? So
7 the FAST Act, there's language in the FAST Act that
8 supersedes all the dates in the regulation, so as we're
9 continuing to get closer to publishing the rule that
10 will adopt what's in the FAST Act, we have to keep that
11 in mind.

12 Many of these dates are the same, or very
13 similar, the difference would be that the HM-251 rule
14 took an approach of focusing on HHFTs and packing
15 group-based, kind of, risk, right? Similar thing,
16 because much of crude oil that we're talking about is
17 Packing Group 1, so crude oil pretty much came first in
18 that rule as well.

19 The FAST Act took those deadlines and
20 changed them to commodity-based and expanded it to all
21 Class-III materials, not just in HHFT, so there's some
22 differences there which, you know, that's beneficial in
23 that you're now getting all Class-III materials into
24 the 117s. The only thing, like I said, we had the
25 ability to get reports under HM-251, but the bigger

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1 gain here, also, through the FAST Act, would be that
2 there's, in 7308 of the FAST Act, a modification
3 reporting requirement that goes into play that we're
4 implementing right now.

5 MEMBER SUMWALT: Okay. So talk about that
6 reporting requirement and PHMSA will keep track of how
7 the industry is doing. Rob.

8 MR. BENEDICT: So the important fact to note
9 to being with is, there's kind of two parts of the FAST
10 Act reporting requirements. There's one that I view as
11 kind of retrospective, looking back at what's happened
12 in the past year as far as TC-117, new construction,
13 retrofits, similar to the numbers that Bob talked about
14 just a minute ago.

15 There's also a forward-looking aspect where
16 we'll -- and require us to engage with the retrofiting
17 industry as well as the Greenbriers and Trinitys of the
18 world to see what the projections, as far as capacity,
19 are for the coming year.

20 So PHMSA, FRA, and the Bureau of
21 Transportation Statistics have gotten together, we are
22 collaborating with AAR to get the retrospective data,
23 and we plan to include that with a notice to collect
24 information from the tank car manufacturers to get the
25 forward-looking data and report that on an annual

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1 basis.

2 We're required to provide a report to
3 Congress, but in addition, we plan to post that
4 information publicly every year.

5 MEMBER SUMWALT: Wonderful. That's great.
6 Now, what enforcement mechanism do you have in place if
7 these deadlines are not met?

8 MR. ALEXY: I can't say that we have any
9 particular mechanism in place yet. I mean, we're
10 coming up on these deadlines and we've gotten these
11 type of informal reports. You know, FRA does have a
12 group that goes out and does audits of these
13 facilities, and we sort of keep tabs. We're obviously
14 not looking at production rates or anything like that,
15 and we're getting a handle on the facilities that are
16 out there who are actually doing these retrofits and
17 building these cars, but, you know, like I said, we
18 don't really have an enforcement mechanism in place
19 right now.

20 MEMBER SUMWALT: Great. Thank you for that
21 answer. So I'm going to go to AAR, and we've put Bob
22 on the spot, maybe, Ken, you would answer this,
23 whichever one you like, and then, Andy Ash, I want to
24 hear your perspective from the Railway Association of
25 Canada. What can, or what is, the AAR and Railway

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1 Association of Canada, what are you all doing, what can
2 you be doing, to encourage car owners to comply with
3 the implementation dates?

4 For example, are you considering an industry
5 standard/interchange rule, or other mechanism, that
6 would refuse non-DOT-117-compliant flammable liquid
7 tank cars in commerce?

8 MR. FRONCZAK: I'll take a first stab at
9 that. I mean, those cars are illegal after those
10 deadlines. So are members, basically, can't pick them
11 up. And, you know, there are mechanisms in place where
12 railroads know if, you know, a commodity is in a car
13 that it's not suited for, they won't pick it up.

14 So I mean, that's what I would say and how I
15 would answer that. I don't know if anybody wants to --

16 MR. ASH: From the RAC standpoint, you know,
17 we represent 50-plus railways that operate in Canada
18 presently. Around 24 of those are hauling dangerous
19 goods, which does include crude oil, ethanol, and many
20 other flammable liquids in Class-III service. As to
21 mirror what Mr. Fronczak says, we go by, being a
22 railway industry in Canada, the timetables that are set
23 out, which, in Canada, are harmonious with those set
24 out in the United States, to facilitate transport or
25 traffic.

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1 However, our members would be governed by
2 the same rules by saying we could not pickup cars at
3 shipper origins and move them in transport.

4 MEMBER SUMWALT: Great. Thanks. And in
5 Topic 5, the last panel of the day, we're going to talk
6 about future ways, innovative ways, to spur quicker
7 compliance and see if there's any innovative ways that
8 we can look at that, so that's really where we can talk
9 about some of these things, but let me go back to the
10 regulator, both PHMSA and FRA, you know, the FAST Act
11 Section 7304 states that the DOT Secretary may extend,
12 up to two years, the deadline for retrofitting to the
13 117 standards if there's insufficient retrofitting shop
14 capability or capacity.

15 How do you anticipate this working and how
16 would you determine if "insufficient retrofitting shop
17 capacity exists"? And there's probably not going to be
18 a problem, as long as there's a demand, there's
19 probably not going to be a problem, because these folks
20 are going to make sure, but we at the NTSB are
21 sensitive to extending deadlines, so why don't you tell
22 us a little bit about that?

23 MR. BENEDICT: Sure. With the FAST Act, one
24 key distinction is the addition of all flammable
25 liquids. So I believe, I don't want to speak for the

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1 authors of the FAST Act, but that was put in there
2 probably to address the concerns there. I can tell
3 you, our secretary was very adamant about the schedule
4 that we adopt, and we want to try to stick to that as
5 closely as possible, and from the numbers that Bob's
6 reporting today, it appears that, currently, you know,
7 they're on pace.

8 And as far as to how we're going to measure
9 that, that'll be rolled into this reporting
10 requirement. We feel like, an annual basis, we'll have
11 a good look of what's happened and what's planned to
12 happen in the next year, and then gauge it from that.

13 MEMBER SUMWALT: Thank you. And as we know,
14 the FAST Act has not been codified. The Congress has
15 said PHMSA must, within a year, I think, develop a law,
16 I believe, and it's probably in a rulemaking process
17 now, which means you probably can't say anything about
18 it, but is there anything you can tell about how that
19 rulemaking process is coming along?

20 MR. SUPKO: Yes. I mean, you know, there's
21 three key sections there that deal with HHFT issues in
22 the FAST Act, 7304, 7305, and 7306, so you're dealing
23 with bringing in all Class-IIIs, implementing the
24 timetable, the schedule, top fitting protections, and
25 also, the thermal protection. So, you know, much of

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1 the language in the FAST Act is either self-executing
2 or non-discretionary, so that's how we're approaching
3 this movement forward.

4 So, you know, we're getting very close to
5 getting this rule published, so it won't be very long
6 before you see it on the streets. Should be within,
7 you know, before the end of summer for sure.

8 MEMBER SUMWALT: Thank you. Bob, please,
9 sir.

10 MR. HULICK: Just one other point back on
11 your question about the extension. That extension is
12 not available to any of the crude oil or ethanol. I
13 believe that extension would only be available for the
14 other flammables. I think only Packing Group 3, if
15 memory serves, so it only impacts a small segment of
16 the Class-III flammable liquid fleet.

17 MEMBER SUMWALT: Thank you very much for
18 that. While I've got you on the hook, HM-251 states
19 that new tank cars constructed after October the 1st of
20 2015 are required to meet the 117 design and
21 performance requirements for use in high-hazard
22 flammable trains, and so I think the language is fairly
23 clear, but nevertheless, this question came up when we
24 were working on our planning, does this mean if I had
25 ordered a car prior to October the 1st, it could still

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1 be constructed to older standards or does it mean that
2 anything -- I mean, if I ordered it in, say, July of
3 last year, and I wasn't going to take delivery of it
4 until, say, 1st of January of this year, would that car
5 have to be -- let's say it was built -- let's say it
6 was ordered in July, but it wasn't constructed until
7 the 1st of January, to which standard would that have
8 to be -- could that be built to an old standard?

9 MR. HULICK: No. It's the date of
10 manufacture, very clear, so any asset destined for
11 Class-III flammable liquid service would have to be
12 conforming to DOT-117 as of that date.

13 MEMBER SUMWALT: Thanks. That's exactly the
14 way I read that, but we had that question, so we want
15 to make sure. And, Greg, please jump in.

16 MR. SAXTON: Can I put a fine point on that?
17 It's still legal to build a 111. It's just, you can't
18 put these Class-IIIs in them, according to these dates.

19 MEMBER SUMWALT: Right. And so we mentioned
20 the word high-hazard flammable train, and can you
21 describe what that is? If you don't, we've got it, but
22 wanted, for those watching, it's a block of 20 or 35 in
23 any train. Is that, basically, correct? Yes. So
24 that's, when we mention high-hazard flammable train,
25 what we're talking about.

1 And that's a really good point, Greg, there
2 that, yes, the 117s can still be constructed, they just
3 can't be used for use in carrying flammable liquids.

4 MR. SAXTON: Right, the 111s.

5 MEMBER SUMWALT: Yes. Thank you. So, Bob,
6 let me jump back to you. You mentioned that a lot of
7 the 111s, I think, the legacy tank cars, have been
8 removed from service from crude, 97 percent of them, I
9 believe, or nearly, where have those cars gone? Are
10 they being used to store product while sitting on a
11 track side, on a siding, or what's going on with those?

12 MR. FRONCZAK: I cannot answer that
13 question. I can say that there are a lot of cars in
14 storage, but somebody, theoretically, could take the
15 cars that were transporting crude oil and move them
16 into ethanol or other flammable liquid service, but I
17 don't know if that is happening.

18 MEMBER SUMWALT: Does anybody know?

19 MR. GARD: Anecdotally, we're seeing a lot
20 of storage of the old DOT-111s on short line railroads,
21 and they're just pulling them out of service.

22 MEMBER SUMWALT: Are they stored with
23 product?

24 MR. GARD: They're stored empty. They are
25 being stored empty.

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1 MEMBER SUMWALT: Okay. Thanks. And, Karl,
2 please.

3 MR. ALEXY: There's a rule that prohibits,
4 you know, storage of product in transportation, so
5 there's a 48-hour rule, unless it's on private track,
6 so there's something that's going to prohibit them from
7 doing that.

8 MEMBER SUMWALT: And except for private
9 track, is there a lot of private track out there? I'm
10 just trying to get an idea.

11 MR. ALEXY: I don't know. That's a good
12 question. I mean, you know, that private track is
13 something where someone has exclusive access to that.
14 You know, the railroads lease it to someone and they
15 have exclusive use.

16 MEMBER SUMWALT: Thanks a lot. Thank you.
17 We're really running out of time, but, please, Dick.

18 MR. KLOSTER: One comment on the use of a
19 large general purpose tank car in non-flammable liquid,
20 95 percent of the commodity base that wants to move in
21 these larger cars are flammable liquids. So at the end
22 of the day when fleet owners are looking at cascading
23 these cars into non-flammable service, you're going to
24 have 20-plus candidate cars for every one car that
25 actually needs to be, so you're going to have to change

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1 the spec of the car, you know, otherwise there's really
2 no viable use for them.

3 MEMBER SUMWALT: Great point. And, John?

4 MR. BYRNE: Just want to comment that we do
5 know that since 2013, approximately 4000 DOT-111s have
6 been, basically, scrapped.

7 MEMBER SUMWALT: Four thousand legacy tank
8 cars have been scrapped since when?

9 MR. BYRNE: 2013.

10 MEMBER SUMWALT: 2013. Thank you. Kelly or
11 Gabe?

12 MR. KLOSTER: Just one more point. Another
13 thing about cascading a car that was in crude service
14 to ethanol, and maybe, Kelly, you can kind of comment
15 on this, but from understanding is, is that, a lot of
16 ethanol shippers do not want to use that car because it
17 cannot really ever be sufficiently cleaned to get the
18 crude out of it for ethanol shipment.

19 Taking a car that was in crude service,
20 cleaning it to put it in ethanol service, there's a lot
21 of resistance from ethanol shippers in actually taking
22 on an ex-crude car.

23 MS. DAVIS: It is a process. We actually
24 have a conversion guide. We had to produce that pretty
25 early in the process when crude by rail came on. We do

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1 need a fungible tank car system and it is a costly
2 system to clean them out.

3 MEMBER SUMWALT: Thanks. Boy, this is
4 already a great discussion and we're kind of running
5 out of time for this discussion. So many more things
6 I'd like to ask and I've got a bunch more questions,
7 but let me turn first to our panel here and see what
8 questions they have, and then those that might be
9 coming in from the audiences.

10 MR. STANCIL: Yes, just to tack on to, I
11 think it was that, John was saying regarding
12 transitioning crude oil cars to ethanol. In our
13 investigation of the accident in Lesterville, South
14 Dakota, we noted that there was some cars in the
15 consist that had been converted. These were jacket
16 CPC-1232s and they had been converted from crude oil to
17 ethanol use. Is that a widespread thing? Is that
18 happening often?

19 MR. BYRNE: I can tell you that, based on
20 our look, 2013 through first quarter 2016, with respect
21 to ethanol, in 2013, there were 2 percent of the
22 ethanol fleet was CPC-1232 cars, that, basically, went
23 up to 8 percent for the non-jacketed cars and 2 percent
24 for the jacketed cars, so there has been, you know, 10
25 percent of the ethanol fleet right now looks to be in

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1 the CPC-1232 car.

2 MR. STANCIL: And are these cars coming from
3 the ethanol fleet -- from the crude oil fleet?

4 MR. BYRNE: Not sure.

5 MR. STANCIL: Okay. If you bring a car in
6 from crude oil, does there require any additional
7 modification? Is there anything, like, with respect to
8 the gaskets, for instance, is there something that
9 needs to be done to prepare that car?

10 MR. BYRNE: I'm not aware of a significant
11 amount of work to be done. I think with respect to
12 moving from crude to ethanol, it mostly has to do with
13 interior prep, baking the hydrocarbons out of the car,
14 and things like that, so it's really more of a cleaning
15 process.

16 MR. HULICK: Just one other comment on that,
17 Paul, there are some gaskets that would be used in
18 crude oil that may not be compatible for ethanol and
19 that gasket would have to be changed, but that's not
20 all the cases, but there are some instances.

21 MR. STANCIL: But beyond that, and cleaning
22 the tank car, there's no reason why a car in crude oil
23 service could not be used in ethanol, correct?

24 MR. KLOSTER: No, I mean, there also might
25 be some valve work, but that's going to be specific to

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1 the actual shipper, what his choices are, but at the
2 end of the day, that happens all the time. You have a
3 tank car going from, you know, one shipper to the next
4 shipper with a different commodity, and it's the cost
5 of doing business to change out the valves and gaskets,
6 so it's not an economically onerous thing.

7 MR. STANCIL: Thank you.

8 MR. KLOSTER: I think the thing, if you look
9 at it, CPC-1232s didn't get started being produced
10 until, you know, mid-2012, because the rule said
11 ordered on or after October 1st, so it was probably not
12 until 2012. And so when you understand who buys these
13 cars, if it's a shipper buying a car, an ethanol car or
14 a crude company, they're going to put that car into the
15 service that they have.

16 It's the leasing company cars, you know,
17 that would be switched from one to the other, but the
18 reality is, it's only been four years, and most of
19 those leases that were done were, you know, five-plus
20 years, so I don't think there have been a lot of cars
21 that have come up for renewal to necessarily, you know,
22 create that, you know, big population of cars that
23 might move from one service to the other.

24 If we hadn't had the downturn in oil prices,
25 you know, and things were going like they used to be,

1 you know, that may have been a bigger thing, but
2 there's just a big huge disconnect between the market
3 reality of how many cars we're going to need for the
4 crude fleet versus how many cars we actually built for
5 the crude fleet, and that's going to be a big problem
6 going forward.

7 MEMBER SUMWALT: Right. I've got two
8 questions from the webcast. These are great questions,
9 so I want to ask them. We've really just hit 45
10 minutes for this panel, but these are good questions,
11 and we do want to encourage people to submit questions,
12 and we appreciate them, and I think these are right on
13 point.

14 One is from the webcast, AAR is saying that
15 about 10,300 DOT-117 and 117Rs are in service as of
16 June the 30th, and what type of service are these cars
17 currently in, and please break out by commodity. And
18 then a subpart to that is, what is the expectation for
19 how many 117s and 117Rs will be in operation by the end
20 of 2016 and by the end of '17?

21 And you may not have that right at the tip
22 of your fingers, but here's the gist of it right here.

23 MR. FRONCZAK: So what I've got for cars
24 that have transported commodities in the first quarter
25 of 2016, there are 1786 in -- and these are all 117

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1 cars, brand new 117s, 1786 in crude oil, 918 in
2 ethanol, and 391 in other flammable liquid service. On
3 the 117Rs, there's 116 in crude oil, 0 in ethanol, and
4 21 in other flammable.

5 But there are some -- there is some
6 overpackaging that occurs in 105s, 112s, 114s, 115s,
7 120s, and there's a reasonable amount of cars that are
8 actually being overpackaged today. Eight thousand
9 eighty-two cars in other flammable liquid are in those
10 other car types.

11 MEMBER SUMWALT: Thank you very much and we
12 really did not want a PowerPoint presentation and all,
13 but Bob was nice enough to prepare us slides which are
14 going to reside on the NTSB's Web site under this
15 advocacy event. We have our own page dedicated for
16 this, so those will be on the Web, I believe, and thank
17 you very much for preparing all that data.

18 One more. This from talking about the
19 Cherry Valley accident that occurred in June of 2009.
20 And so anybody can jump in on this one, given that the
21 Cherry Valley incident involved a long unit train of
22 ethanol, when did the block shipment of ethanol versus
23 long unit train shipping method as AAR has suggested?
24 I'm not sure I totally understand the question, but I'm
25 not sure, but, Bob, if you can take a stab at that.

1 MR. FRONCZAK: Well, I don't have statistics
2 on the number of unit trains versus large blocks, and
3 all I can think of is, if anybody in the room, Kelly
4 Davis might have an understanding of how her shippers
5 ship.

6 MS. DAVIS: Well, we do 70 percent. We do
7 ship 70 percent of our product on the rail. Unit
8 trains has been an increasing transportation efficiency
9 that we have been using. It is difficult to get
10 numbers. It resides in an area that's difficult to get
11 numbers, but we are encouraged to do more unit trains.
12 We ship by blocks, but we ship a lot of single cars
13 too; a mass quantity.

14 I would suggest that, probably, we may be 40
15 percent unit train, and that is just one snapshot
16 number that I requested from the AAR recently.

17 MEMBER SUMWALT: So if we were to use the
18 definition of high hazard flammable train, where 20 or
19 more shipped in a continuous block, or a total of more
20 than 35 in the entire train consist, what percentage
21 would you think would meet that definition?

22 MS. DAVIS: Well, that's going to happen in
23 the yards. Our ethanol plants in the Midwest, some
24 don't even own cars of a 20 fleet, so they would always
25 be dispatching what we call singletons, you know,

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1 single cars, in the commerce, but once they get to the
2 Chicago rail yards, it would be the railroads then that
3 would have the ability to form that consist.

4 MEMBER SUMWALT: Great. Thank you.
5 Fabulous discussions. Dick, you wanted to jump in
6 there, so please go ahead.

7 MR. KLOSTER: I actually have some numbers.

8 MEMBER SUMWALT: Wonderful.

9 MR. KLOSTER: So this is based on an
10 analysis of the 2014 Public Use Way Bill, and you're
11 pretty close.

12 MS. DAVIS: Good.

13 MR. KLOSTER: It also depends on how you
14 define a unit train, but basically, 32 percent of all
15 the ethanol shipments were single car, about 20 percent
16 were multiple car shipments of anywhere from 2 to 74
17 cars, 46 percent were shipments of 75 to 99, and less
18 than 1 percent were over 100 cars, so it's really
19 single car and then that 50 to 75, you know, large
20 block, maybe a unit train, maybe some other cars on the
21 tail end of the train.

22 MEMBER SUMWALT: Thanks. Another thing too,
23 if you're mentioning those figures, I'm thinking, wow,
24 I wish I was writing that down, but we do have a court
25 reporter, and I believe we're going to get a quick

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1 turnaround on this transcript, and that also will
2 reside on the NTSB's Web page, so thank you. This has
3 been a fascinating discussion and we are going to move
4 now into the second topic, so Nicholas, if you'd set
5 the clock for 35 minutes, we're going to chop it down
6 just a bit so we can remain somewhat on schedule.

7 This second topic is, we're going to move
8 from the first topic, we talked about the deadlines,
9 the new standards, how the government regulators will
10 monitor that, we've gotten some good numbers from AAR,
11 now we're going to go to the tank car manufacturing,
12 leasing, and outlook.

13 So I think the big question is going to be,
14 is there adequate capacity within the tank car
15 manufacturers to manufacture or retrofit to meet the
16 117 standards? And that's a general question that I
17 think will be the overriding theme of this panel, but
18 let me ask you this, are there concerns from the tank
19 car manufacturers to be able to meet whatever demand
20 there is? Greg? Bob?

21 MR. SAXTON: Actually, no. I really think
22 right now there's sufficient capacity. There's excess
23 capacity. And there might even be some 117Js that are
24 looking for homes right now that are stored, so we'd
25 love an order.

1 MEMBER SUMWALT: Wonderful. And when you
2 say the 117J, that is the basic 117 car, is that right?

3 MR. SAXTON: Yes, as opposed to the 117R,
4 which, of course, is a retrofit, and then there's also
5 a --

6 MEMBER SUMWALT: P.

7 MR. SAXTON: -- P for performance, but J is
8 what we're building new.

9 MEMBER SUMWALT: Yes. So 117J is -- yes,
10 117, because I saw that term and I thought, what is
11 that, and so I just wanted to make sure I understood.
12 Anybody building anything to the 117P, which is the
13 performance standard? Any plans for that, unless
14 that's --

15 MR. SAXTON: Not that I'm aware of. Bob?

16 MR. HULICK: Not at this time. It's an
17 option that's open to us.

18 MEMBER SUMWALT: Great.

19 MR. HULICK: When you talk about production
20 in the past, I think you also have to bear in mind the
21 tank car manufacturing footprint has been very
22 resilient in its ability to ramp up or to retract based
23 on demand. Just a couple numbers. In 2014, various
24 economic review agencies have tracked the production of
25 tank cars that just north of 35,000 in 2014, just north

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1 of 36,000 in 2015.

2 Those same forecasters are now saying, this
3 year, there may be 20,000 constructed. So you see that
4 there is certainly a reduction in what's being built as
5 compared to capacity that was established in recent
6 past.

7 MEMBER SUMWALT: Now, both that figure up,
8 that you and I had a sidebar conversation yesterday,
9 and I want to make sure that I heard it right this time
10 too, did you basically say that between 35,000 and
11 40,000 tank cars were built last year?

12 MR. HULICK: 36,000 last year and 35,000 in
13 2014.

14 MEMBER SUMWALT: And that includes the
15 pressure tank car fleet as well.

16 MR. HULICK: That's all tank cars.

17 MEMBER SUMWALT: Right. But from those
18 numbers, let's say, what percentage -- about how many -
19 - well, you've already said, Bob, that already, there's
20 about 10,200 117 out there in the fleet, and that
21 started -- when did that actually start? October the
22 1st of last year or when did that actually start? And
23 maybe these guys can tell us. Please.

24 MR. BYRNE: That actually started in the
25 first quarter of 2015 and we are in the neighborhood

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1 of, you know, 10,000 cars, plus there's probably about,
2 you know, 1000 cars or so that were built prior to the
3 existence of the standard, where the car
4 characteristics would meet the requirements of a 117,
5 but they were registered as 111s, and they're looked at
6 as CPC-1232s, so there's actually more than 10,000 out
7 there now.

8 MEMBER SUMWALT: Interesting. And a figure
9 that I saw in an AP article this morning, said that,
10 really, the 10,000 is about 20 percent of the 50,000-
11 some-odd tank cars that are used in high hazard
12 flammable trains, I think, so that's 20 percent of that
13 section of the fleet that's been built in a year and a
14 half.

15 So if you do the math on that, we should be
16 able to meet these deadlines. Am I thinking correctly?
17 I was never very good at math. In fact, I was awful at
18 math.

19 MR. HULICK: Well, you know, our side
20 companies have committed that we will certainly meet
21 the deadlines that are established by the regulatory
22 agencies.

23 MEMBER SUMWALT: That's certainly
24 encouraging news. Thank you. Please, Dick.

25 MR. KLOSTER: Would you like some more

1 numbers?

2 MEMBER SUMWALT: Absolutely.

3 MR. KLOSTER: Okay. So I am one of those
4 forecasters and the 36,300-some-odd cars that were
5 built last year, our estimates are that about a little
6 over 11,000 -- I'm sorry, a little over 17,000 were in
7 the large general purpose class, which is the cars that
8 we're talking about here today would be. About 11,000
9 were in the pressure category, very much skewed to the
10 largest cars, and then the rest were all the other tank
11 cars, to give you a scaling.

12 And what's happening this year, when we're
13 down to 20,000, is that there's a big shift away from
14 delivering the large general purpose cars to other car
15 types because as the crude cycle, and also the ethanol
16 cycle before, new car costs got bid up so high that a
17 lot of the, you know, regular shippers of corn syrup,
18 and sulfur, and things like that, the cost of their
19 cars became, you know, so onerous that they delayed
20 their normalized replacement demand.

21 So you had a little bit of a pent up demand,
22 which, after the ethanol cycle, started to play itself
23 out, and then got stopped dead in its tracks with the
24 buildup of the crude fleet, and which is now trailing
25 down, so you've got a transition of the new car tank

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1 car market back to the old historical replacement-
2 driven market for all kinds of cars, and that's going
3 to pickup speed, and it's still going to keep the
4 deliveries this year, through 2020, well above the
5 historical trend of about 10,000 tank cars a year, so
6 to give some perspective.

7 MEMBER SUMWALT: Thank you very much. Any
8 idea, Dick, can you tell us to what extent surplus
9 crude oil tank cars are being placed into ethanol
10 service? Does anybody know that? So we had, you know,
11 two years ago, huge crude by rail, that's down by a
12 pretty good chunk right now, and so where are those
13 cars going? I think you said that they're not going
14 into ethanol service because the ethanol shippers don't
15 want cars that have been in crude oil.

16 MR. KLOSTER: Yes, I mean, if you look at
17 Bob's chart, what he says is in this space, if you
18 will, we've got 100,000 cars that are needed. The
19 reality is, is that, in the first of the year, the
20 fleet for these general purpose cars, large general
21 purpose cars, is 128,000, so just by math, we've got,
22 you know, almost 30,000 too many cars for the volume of
23 freight that we have today.

24 And so what's happening is, you've got
25 people -- you've got, you know, ethanol, which is still

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1 kind of steady Eddy, you know, going up a little bit,
2 so they're retaining their cars, they're not moving to
3 the new standard because they don't have to until after
4 2020, you have the crude side, which is, you know,
5 pushing cars out because, you know, their volumes are
6 down significantly.

7 They've already, pretty much, gotten rid of
8 all the 111s that were on their fleet, so, you know,
9 what it is, is now it's building 117s, a little bit of
10 117Rs, and then the continued use of the CPC-1232s,
11 which will be the base for any retrofits going forward
12 to 117Rs. They won't necessarily be in crude, the old
13 legacy ethanol 111s, they'll be CPC-1232s, for the most
14 part, retrofitted to 117s.

15 DR. NEELS: And John had already commented
16 before that the composition of the ethanol fleet had
17 shifted pretty substantially in the direction of the
18 1232 cars.

19 MR. BYRNE: Well, yes, between 2013,
20 ethanol, basically, and 2016, the percentage of CPC-
21 1232 cars in ethanol went from 2 percent to 10 percent.

22 MEMBER SUMWALT: And I want to hear that
23 again, so the percentage of cars that were in service
24 for ethanol has gone from 2 percent to 10 percent?

25 MR. BYRNE: CPC-1232 cars.

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1 MEMBER SUMWALT: Okay.

2 DR. NEELS: I think the composition of the
3 ethanol fleet has shifted in that way, relatively more
4 1232s, relatively fewer legacy 111s.

5 MEMBER SUMWALT: Okay.

6 MR. KLOSTER: But if you're 10 percent 1232,
7 that means you're 90 percent 111s, so there's a long
8 way to go, but also a long lead time for that side of
9 the user group to --

10 MR. BYRNE: Right. You're 85 percent DOT
11 111s in ethanol.

12 MEMBER SUMWALT: And like you say, those
13 deadlines are basically the middle of 2023, I believe,
14 so how far away is that from here? Seven years?
15 Whatever year this is. Yes, that's about seven years
16 away. So, Kelly, do you want to jump in on that? I
17 mean, the crude oil demand is down, so could some of
18 that excess manufacturing capacity that's not being
19 taken up by crude, would there be much interest in your
20 members of going ahead and jumping on those 117s now,
21 that would mean they'd have to spend the money seven
22 years or six years before they're really required to.

23 MS. DAVIS: Right. You hit the nail on the
24 head with money, and also, where they are within the
25 business contract of their current leases. The ethanol

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1 industry leases a lot of cars, so I would prefer to
2 just defer to the people who, you know, lease the cars
3 to the ethanol shippers to have some comments relative
4 to that. I would like to learn that myself.

5 MEMBER SUMWALT: About how many cars are in
6 -- would be in a fleet for ethanol service?

7 MS. DAVIS: We have about, well, according
8 to the stats here, 29,000 to 30,000 cars in ethanol
9 service.

10 MEMBER SUMWALT: And I think what you just
11 said was about 80 percent of those still the legacy
12 cars?

13 MS. DAVIS: Yes. You have to realize that
14 85 percent of our whole fleet was built from 2006
15 forward. These are relatively new cars and it was new
16 investment made on behalf of the ethanol industry, so
17 as we comply with the FAST Act regulations, the
18 business side, with the lessers and the lessees,
19 becomes the area, due to contracts and things like
20 that.

21 MEMBER SUMWALT: Great. And one of the
22 later panels, we do want to get in to see if we can get
23 an idea of the relative cost of a new car versus a
24 retrofitted car, something like that, so --

25 DR. NEELS: I might want to add something to

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1 what Kelly said, because she made a pretty big point,
2 we've been talking a lot about the technical
3 capabilities of the car, but the institutional
4 arrangements, you know, the leases, the terms of the
5 leases, the specific cars that they include are at
6 least something that one has to work through if you're
7 shifting new cars into service.

8 If a shipper has contracted with a group of
9 cars, he's got those cars for a specific term. And as
10 these changes take place, they have to take place
11 within new leases, and new shippers, and new contracts
12 for this to work, so that institutional side of this is
13 also something we need to keep in mind.

14 MEMBER SUMWALT: Thank you. We just got a
15 question from the audience, the audience here in the
16 boardroom, and so I'll toss it out to see where you
17 are, how much does the added steel in the related
18 equipment to the 117 standards, what does that do to
19 the capacity, to the car capacity? Is this
20 significant? Is the shipper going to need more cars to
21 transport the same quantity of product?

22 And as I recall, there's a provision to go
23 from a 263,000-pound car up to 286,000, I believe, so I
24 believe it's a net -- it's a wash, I believe, but Karl,
25 please jump in on that.

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1 MR. ALEXU: Yes, that's correct. Now, this
2 is something that we put in pretty good detail in the
3 final rule, how we arrived at that conclusion, but yes,
4 all the added safety features that we require, thicker
5 steel, head shields, jacket, insulation, or thermal
6 protection, would there be, basically, a zero net sum
7 for the weight and the capacity.

8 You know, this material will fill a -- you
9 know, it reaches the capacity -- well, the capacity of
10 the tank's 30,000 gallons, roughly, and, you know,
11 given the weight of the material, you don't lose any
12 capacity for that.

13 MEMBER SUMWALT: So in that respect, we
14 don't expect an unintended consequence because the same
15 number of cars in a train should be able to carry,
16 basically, the same capacity. Please, Greg.

17 MR. CLAYPOOL: All right. I'm going to have
18 to respectfully disagree with that. Probably don't
19 know the named car plans, but I can tell you we're one
20 of 15 crude by rail terminals in the Bakken or the
21 Williston Basin, and we've launched 500-plus trains in
22 the last two years. There is absolutely a loss of
23 volume in the new car size versus the legacy 1232s, not
24 the 111, but the 1232. That was a large reason why you
25 started to see people move away from the 111 to the

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1 1232, was the larger volume that you could unload.

2 The new 117 standards are a smaller volume
3 car, so it's very detrimental in the land of business
4 or economics to the shipper itself.

5 MEMBER SUMWALT: And the dimensions of the
6 inner shell are the same, is that true? If anything,
7 the dimensions of the outer -- the outer dimensions
8 would increase, but is it true that the inner
9 dimensions are the same?

10 MR. DORSEY: They're slightly smaller. The
11 problem is, of course, you have some other
12 considerations in that we have constraints on how wide
13 a car can be, depending on how long it can be. What
14 I've seen is, some builders had been able to get cars
15 up slightly over 31,000 gallons, and the new 117s,
16 you're a little under 30,000 gallons. I don't know
17 what that specifically does to your business, but there
18 is a decrease when you go to the 117s, but it's a -- I
19 don't know. You'd have to talk to the --

20 MR. CLAYPOOL: It's, roughly, from a 1232
21 car type in the crude oil world, specifically, it was
22 725 barrels, is what we had put in that legacy 1232,
23 the new 117s are somewhere in the 685 range, which
24 doesn't sound like much, except when you're in the game
25 of pennies, those 40 barrels might be your profit

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1 margin, so it's a game changer for the shipper.

2 MEMBER SUMWALT: Great. And I appreciate
3 that perspective. And, Bob, I think you wanted to jump
4 in, and then we've got some folks over here, so great
5 discussion. Thank you for that.

6 MR. FRONCZAK: Yes, I think it's very
7 difficult to answer this question, you know, simply,
8 right? It depends on what your baseline is. If your
9 baseline is an old 263,000-pound tank car, DOT-111 tank
10 car, you're really not going to lose any product when
11 you're going to a 117 at 286,000 pounds.

12 But if you started, like the gentleman here
13 said, you know, a 286,000-pound tank car, the volume is
14 the same, right, but you have a total gross weight on
15 rail that remains 286,000, so whatever steel you add
16 for extra protection, a head shield, a jacket, you're
17 going to be taking away from product, so it's a complex
18 question.

19 MEMBER SUMWALT: Wonderful discussion.
20 Let's jump over here. Bob?

21 MR. HULICK: Yes, I agree with Bob's
22 assessment, and we really have separate markets. And,
23 you know, based on the density of the product, and we
24 have the ethanol market, we have the shale market, and
25 then we have the heavy crude market, so the impact of

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1 these regulations on the existing cars varies. And
2 obviously, if it was a 263,000 gross rail load car, and
3 you can go to 286,000, that can accommodate the
4 improvements that are applied to the car, but you're
5 absolutely right, you know, Gabe's comment about the
6 good faith non-jacketed car, CPC-1232 non-jacketed
7 cars, compared to the DOT-117, there is a slight
8 decrease in the carrying capacity.

9 So you have to get into those specifics and,
10 you know, in many cases, you also have to talk about,
11 you know, the density of the product and how that
12 relates to the volume of the tank car, et cetera. We
13 won't get into all those gory details today, but it's a
14 complex discussion.

15 MEMBER SUMWALT: Wonderful discussion.
16 Anybody else want to comment on that particular topic
17 before I toss it over here to our panel? Dick, please.

18 MR. KLOSTER: So one point Bob just said and
19 what Gabe just said, you know, so we started out with
20 the 30,000-gallon, 263,000-pound capacity gross rail
21 load car during the ethanol cycle, and then when CPC-
22 1232 came in, that was when, you know, the Bakken was
23 hot, and so the Bakken crude is more of a light suite,
24 didn't require coils and insulation, so the cars were
25 scaled up to 286,000, and that meant that 30,000-gallon

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1 jump to 31,800.

2 Then when you enter in the fact that the
3 market moved up to Canada, you needed to add some --
4 and that's about 9000 pounds when you go from a legacy
5 111, non-coiled, non-insulated, non-jacketed car, you
6 know, to the 286,000 117, that's about a 10,000 car
7 jump -- or 10,000-pound jump, but the problem with
8 retrofits is that the gallon-ish capacity didn't
9 change, so you're going to have to go to 286,000.
10 You're going to add 10,000 pounds, you don't want to
11 have to light load the car, so you're going to have to
12 go through the expense of going to 286,000 on that
13 30,000-gallon car.

14 MEMBER SUMWALT: Thank you.

15 MR. HULICK: And one related comment, and
16 maybe Kelly can help me answer this, but one of the
17 things, you know, we've heard from a number of the
18 ethanol shippers is, not all their lanes can
19 accommodate a 286,000-pound gross rail load car, so
20 while the math works out on the capacity, et cetera, as
21 how much you can put in the car, there may be lanes
22 where that can't be used, so it has to be light loaded
23 to be able to meet.

24 MS. DAVIS: Yes, the ethanol industry is
25 rural, so yes, we have plants that are restricted

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1 through bridges and other infrastructure projects that
2 still will have to load at the 263,000 max pounds.

3 MEMBER SUMWALT: Fascinating. Thank you.

4 MS. DAVIS: I would like to ask a question.
5 What is the tare weight of a 117J?

6 MR. HULICK: What size?

7 MS. DAVIS: The ones the ethanol guys are
8 going to be using.

9 MR. HULICK: Well, I think, typically, you
10 know, that market's focusing on a 30,300-gallon car.

11 MS. DAVIS: 30,300?

12 MR. HULICK: And so the light weight of that
13 car is, let me do the quick math here, about 90,500
14 pounds.

15 MS. DAVIS: Yes, typically, our cars in
16 service right now have about a 66,000-pound tare
17 weight, and so you're saying they're, like, 90,000?
18 Thank you. That's the first time I've heard that
19 number.

20 MEMBER SUMWALT: So to be clear, when we say
21 the 117 and the 117J, those are the same. The only 117
22 that's different for this discussion would be the 117R,
23 which is the retrofitted versions, I believe, just so
24 that everybody's on the same page.

25 So I'm going to turn it over to our panel

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1 for a few questions.

2 MR. STANCIL: Yes, just a comment on what
3 Kelly just said and the context of this conversation in
4 general, in a lot of our recent accident
5 investigations, one of the things we do check is the
6 outage on these tank cars to make sure that they're
7 complying with the 1 percent requirement, and that has
8 a lot to do with puncture resistance, so we're
9 concerned about that.

10 What we're finding, and especially in crude
11 oil, a lot of these outages that are running between 3
12 and 6 percent is, you know, if you're worried about the
13 carrying capacity of these cars, is that consistent
14 with, you know, the way it's generally loaded in the
15 industry, and if so, what difference does a few hundred
16 gallons make in carrying capacity if you're not loading
17 them completely?

18 MS. DAVIS: I hear what you're saying.
19 Ethanol has a high coefficient of expansion and we ship
20 to all districts in the country, so we're always been
21 very overly cautious of filling our cars too full. As
22 we have progressed as an industry, we have realized
23 that our transportation efficiency is probably not all
24 the way as it should be, compared to crude who came
25 into the business and did that, so we have -- there's a

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1 lot of people that still load these cars that can hold,
2 probably, 29,500 gallons, they'll still load them an
3 extra 1000 gallons short.

4 So those, I hear what you're saying, but in
5 the context of the people who are transportation
6 efficient, and that's the kind of person that's
7 watching the numbers on the tare weight and what you
8 can get. And 100 gallons over a course of a 100-
9 million-gallon facility, that's a lot of money.

10 MR. STANCIL: Yes, and, Gabe, you expressed
11 the most concern about this. What sort of outages are
12 you loading your cars to?

13 MR. CLAYPOOL: Yes, it's a very specific
14 formula. So we have a state-of-the-art system, as does
15 most of the people in the Bakken, running through
16 Coriolis meters, which are state of the art, and it's a
17 very complicated formula that goes into BS&W,
18 temperature correction, sulfur content, so we're taking
19 a real-time sample, and that goes into the formula that
20 are system then tells what our cars can load, but we're
21 absolutely underloading these things.

22 I mean, a 685-barrel car, legacy 111, has a
23 capacity for 725. A 318 has the capacities for, don't
24 quote me on the math, but like 760, and we set our
25 standard at 725, but we're very careful about loading

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1 these cars, for various reasons, including expansion.
2 We've got light sweet crude oil and heat is not its
3 friend from a pressure perspective, so we take a very
4 systematic approach, as does, I believe, most of our
5 industry, to loading these cars, and they are all
6 underloaded.

7 MR. STANCIL: And, Denford, is that
8 consistent with how your operation works?

9 MR. JAJA: Yes, that is true.

10 MR. KLOSTER: A comment to your question,
11 this is not just an ethanol or a crude, it's an all-
12 rail bulk commodity answer. You're taking me back to
13 my railroad costing and pricing days a long time ago,
14 and the point is, is that, rail is a high fixed cost
15 proposition, so to move that first pound of freight,
16 you've already, the railroad has already incurred, you
17 know, 60 percent of its cost to move that car.

18 And so what shippers of anything from crude
19 to ethanol, to soda ash, to grain, or whatever,
20 transportation can make or break markets, so being able
21 to utilize the full capacity of that car and get every
22 pound or extra ton shipped, helps them make their
23 margins and can make or break a sale, so that's why
24 there's such a high level of concern with losing, you
25 know, nominal capacity in a car by adding weight to it,

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1 because we've got this upper limit called 286 that we -
2 - you can't go beyond.

3 MR. VORDERBRUEGGEN: This kind of comment,
4 based on what Gabe and Denford were saying, we've
5 examined at least one accident that involved Bakken
6 crude and the filling process was done from the well
7 head through tank trucks into rail cars, and what we
8 saw there was, they weren't as concerned about topping
9 off the tank car, because it's a pain in the neck when
10 you are trying to offload a portion of a tank truck, so
11 they were just taking as many tank trucks to get as
12 much in as they could, and they weren't necessarily
13 topping off, using that term.

14 Is that changing? In the oil patch, are
15 they using more of a where they're putting it into
16 storage tanks intermediately so that they then can take
17 full advantage of the capacity? Is that a change in
18 the production fields?

19 MR. JAJA: Yes, that is a change. We are
20 putting it into storage tanks first and then it goes
21 through the system that calculates how much volume is
22 to go in a car more accurately for us.

23 MR. VORDERBRUEGGEN: Okay. Thank you. One
24 other quick question, and maybe it's getting a little
25 bit in the weeds, but in the new standards, the

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1 manufacturers have a choice of using the TC-128 steel,
2 and it can be 1/2-inch wall, or they can choose the
3 ASTMA-516, which forces the heavier wall thickness to
4 9/16. Obviously, there's a slight weight difference
5 there, which may be insignificant in the grand scheme
6 of things, but what is the manufacturers doing? Are
7 you making them all to the TC-128 or does it really
8 matter to the leasers and the buyers?

9 MR. SAXTON: So the new cars are all 9/16
10 TC-128.

11 MEMBER SUMWALT: And by regulation, they
12 have to be the TC-128.

13 MR. SAXTON: I believe that's true.

14 MEMBER SUMWALT: They can't be the 5/16, but
15 is that right?

16 MR. DORSEY: That's true. There were a few
17 CPC-1232s, not very many, that were made out of 5/16 70
18 to the thicker dimensions. Generally, because the
19 manufacturer had trouble accessing TC-128 at the time.
20 It was not very -- a prominent practice.

21 MEMBER SUMWALT: Any other questions? I'll
22 tell you what, this discussion has been fabulous and
23 this is the type of interaction we would love to have.
24 The less I'm talking, the more you're talking, the
25 better. I mean, so I think whatever you're doing, keep

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1 doing. We've gotten three great questions from the
2 audience, whether it's here in person or whether it's
3 via Internet, and they're right on point, so keep doing
4 that.

5 We're going to break in just a second, but
6 I'd like to introduce the NTSB Chairman, the Honorable
7 Christopher A. Hart, who has come. The Chairman is
8 going to be here, he's been here this morning, and he
9 came to make sure that he had the opportunity to meet
10 you during the break, so thank you, Mr. Chairman, for
11 being here. Your staff has done a beautiful job
12 putting this together, I can tell you that.

13 So why don't we break until 11:05. Thank
14 you very much.

15 (Whereupon, the above-entitled matter went
16 off the record at 10:47 a.m. and resumed at 11:07 a.m.)

17 MEMBER SUMWALT: Okay. We're going to get
18 started here. Okay. Welcome back. And I did want to
19 note, and I did not see my colleague, Member Earl
20 Weener, who's in the audience. Member Weener's been
21 here all morning, but I've been fairly busy and paying
22 attention to what's going on out here and not what's
23 going on out there. Member Weener, welcome, and I know
24 the folks will enjoy interacting with you at the next
25 break.

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1 What I'd like to do, we didn't really
2 formalize how we will collect the questions from the
3 boardroom audience, so if you have questions that
4 you've written down on the index cards, about ten
5 minutes before the end of the session, we'll get Mike
6 Hughes. Mike, when people just -- when you talk
7 through the aisle, just raise your cards and Mike will
8 collect them.

9 Any other housekeeping items that we had?
10 Now, we're going to start this next topic, but before
11 we do, Rachael had a follow-up question from the last
12 panel, so go right ahead, Rachael.

13 MS. GUNARATNAM: Thank you. I just had a
14 question about the, I think it was Greg that mentioned
15 there was an excess capacity right now of 117s, is that
16 what you said?

17 MR. SAXTON: There are some in storage.

18 MS. GUNARATNAM: Storage, and so I was
19 wondering why they're not in use right now if there's
20 excess capacity, and maybe that's a question more for
21 the shippers too of, like, how do you -- your fleet
22 composition, how much of those are 117s versus 111s and
23 1232s, and your decision for using a 117 over a 111 and
24 1232.

25 MR. CLAYPOOL: All right. A lot of it's

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1 based on current obligations. So are people still in
2 leases for the 1232 car type? Did they sign up for a
3 new lease on a 117? So a lot of it is existing
4 obligations and a lot of its economics as well. We
5 were just having a conversation around the sizings of
6 the car, but the 1232 car type is still very much in
7 abundance and it's also a larger car.

8 So in the current category of still trying
9 to be profitable, if I can get that extra volume in a
10 larger car that's still regulatorarily compliant, if
11 that's a word, they're going to stick with that, but a
12 lot of it's, frankly, just, what are my current
13 obligations?

14 MR. JAJA: I would also like to add to that,
15 pipeline capacity is increasing in the Bakken, so a lot
16 of the barrels are being moved from rail into pipe, so
17 there is less need for more cars.

18 MR. SUPKO: I think I would also like to
19 say, you know, in regulations, you often create a
20 requirement. The requirement, in this case, for these
21 deadlines is the absolute last moment. So, you know,
22 any sooner would be appreciated by the department, I
23 believe, you know, to push these deadlines. Like, you
24 know, obviously the FAST Act locks us into some
25 timelines, which we're following, but again, that's

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1 kind of the absolute last moment when we want it done.

2 MS. GUNARATNAM: I just had a question for
3 Suzanne, welcome, I just wanted to follow-up on what
4 Denford said about, do you have any comment about the
5 shift from rail to pipeline?

6 MS. LEMIEUX: I mean, from a cost
7 perspective in the long term, once contracted and
8 built, pipelines are certainly a cheaper option for
9 shipping and are, you know, obviously more controlled
10 and you have more consistency, I think, from an API
11 perspective, we are for all of the above options for
12 transportation. That's what creates flexibility in the
13 system and allows us to meet customer demand,
14 regardless of where it is, and obviously, price is a
15 considerable factor.

16 And we've seen more -- as Denford said,
17 we've seen a lot more pipeline capacity come online in
18 the Bakken and that's what we've been working on for
19 several years, is to get that option there because
20 again, once built and contracted, it's cheaper, and
21 transportation does, as mentioned earlier, make or
22 break markets, especially in the low-price environment
23 that we're in right now.

24 MR. CLAYPOOL: Just to stick with Mr.
25 Kloster's math, or some numbers for you, just because I

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1 have it right in front of me, December of 2014, the
2 Bakken was producing about 1.3 million barrels a day,
3 35 percent of that volume was leaving by pipeline, 58
4 percent of it -- sorry, 59 percent of it was leaving by
5 rail.

6 Fast forward 16 months to the most recent
7 data, this is, again, the state data, this is not my
8 math, the pipeline percentage of the takeaway has gone
9 from 35 percent to 58 percent, and the Bakken crude by
10 rail market has gone from 59 percent of capacity, or
11 market share, to 33 percent of market share, so it's
12 pretty substantial in a very short period of time.

13 MR. KOTCHOUNIAN: Regarding the car leases,
14 and without getting into commercial confidential
15 considerations, are there any provisions normally in
16 car leases for the commodity for which the car is
17 leased? And if yes, how does this play when, for
18 example, within the lease period, the rules are changed
19 prohibiting the use of that car for that commodity for
20 which it was originally leased?

21 MR. CLAYPOOL: I could answer from a
22 shippers history perspective, but Mr. Johnson's real
23 time can you give you a much better answer.

24 MR. JOHNSON: So from a leasing perspective,
25 yes, our contracts typically spell out what commodities

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1 the car has been leased for. We don't necessarily know
2 exactly what commodities a shipper may put in a car,
3 but we know what the product was contracted for. In
4 our case, you know, we ask the shipper to notify us if
5 they want to change commodities so that we at least
6 have an opportunity to understand if there's any
7 regulatory impacts that would change, you know, our
8 data collection and inspection of the car, but there's
9 really nothing that would prevent a shipper from
10 putting the car into some other service.

11 MR. KOTCHOUNIAN: Correct. Thank you. And
12 so if the car, for example, is shipped -- is leased for
13 packing 1, 2, and 3 crude oil, and then, let's say,
14 five years ago, and now there's rules that have come
15 into play that eventually would prohibit the use of
16 that car into that service for which it was leased, how
17 is that addressed within the leases of the car? Is the
18 person who leased the car is stuck by and holding the
19 bag?

20 MR. JOHNSON: I think it's typical in most
21 tank car leases to have a mandatory modification clause
22 that kicks in if there is some government-mandated
23 regulator change to the car. The challenge with the
24 tank car retrofit regulation is, if you follow the
25 normal formula that's in most lease contracts, it is a

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1 very cost-prohibitive modification to make.

2 And so I think we're going to let Wells
3 Fargo handle it on a case-by-case basis. Certainly,
4 the lease term, you know, it's going to come into play.
5 I don't think we'll be, you know, executing the
6 mandatory modification clause, just because it's going
7 to be very, very onerous on a lessee.

8 MEMBER SUMWALT: Excellent. So we'll go now
9 -- well, I'll tell you what, I've got one more question
10 that we really did -- it was pointed out to me during
11 the break that we didn't formalize the process for
12 collecting the cards, so during the break, we did get a
13 number of questions, which we do hope to be able to
14 answer during the day, sort of at the tail end of
15 panels or at the beginning of panels, or something, so
16 we are collecting some, but at least now we do have in
17 place a process to collect the cards toward the end of
18 the panel.

19 But there's one more that I did want to ask
20 that was given to me during the break, and so really,
21 I'll open this up to whomever would like to take a shot
22 at it, has any testing and/or analysis been done to
23 estimate the performance of the 117 tank cars had they
24 been -- let's see, has any testing or analysis been
25 done to estimate the performance DOT-117 tank cars that

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1 they would have exhibited in recent accidents? Karl?

2 MR. ALEXY: It's difficult, but I guess the
3 short answer is no. To reproduce all the specifics of
4 an accident, there's so many variables that it's very
5 difficult to do. What we did in the rulemaking was to
6 take generic derailment scenarios and change a -- there
7 were three variables that we changed and compared the
8 outcome of the derailments using different brake
9 systems, different tank cars, and different initial
10 speeds.

11 So again, the short answer is, you know, we
12 can do things qualitatively and looking to see how the
13 cars may have arranged themselves to see if it's
14 similar, but that's a very difficult thing to do.

15 MEMBER SUMWALT: Thanks, Bob.

16 MR. FRONCZAK: And I'd just like to go back
17 to what I said when I opened up, I mean, we have a
18 database that tracked, you know, over 40,000-some cars
19 that have been involved in accidents, so we understand
20 very well, you know, based on every single circumstance
21 those tank cars are exposed to in accidents, how they
22 perform, you know, from a conditional probability
23 release, so if the car's involved in an accident,
24 what's the percent probability that that car will
25 release?

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1 MR. SAXTON: I'd like to add one more point.
2 Karl, you may not be aware that your friend, Francisco,
3 has acquired a couple of 117Js for crash indenter
4 testing out at DTCI. You'll crash a 12 x 12 indenter.
5 And so there's work being done.

6 MR. ALEXY: But, yes, I understand that. I
7 mean, so under very specific test conditions we can do
8 it -- we can compare how it behaves under those test
9 conditions.

10 MR. FRONCZAK: Yes.

11 MR. ALEXY: And if I could add something,
12 and, Bob, I appreciate what you said, one of, you know,
13 our concerns is that unit train operations and
14 derailments of unit trains are unique, it's relatively
15 recent, and that was one of our concerns, one of the
16 things we really took into account during the
17 rulemaking, you know, the behavior of a unit train of
18 tank cars versus a mixed freight train is something
19 that we think is different enough that we had to take a
20 special approach, and that's what we did in the
21 rulemaking.

22 MR. FRONCZAK: Can I follow-up just really
23 quickly on that? No, I don't think it's going to go
24 forever, Karl. I think that the -- I personally don't
25 think that there's going to be any difference in impact

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1 cause releases, and I may be proved wrong. That's
2 fine. I think what we're seeing, though, is, when we
3 have these derailments of unit trains, and we have a
4 pool fire, we have thermally-caused releases, so the
5 pressure relief device releases and, you know, you end
6 up with a thermal tear, potentially, and, you know,
7 right now, that's not well quantified.

8 But I do think with the new 117, with a
9 thermal blanket, and the proper size pressure relief
10 devices, those thermal tears go away.

11 MEMBER SUMWALT: Let's jump into Panel 3;
12 Topic 3. Now we want to talk about retrofitting. The
13 tank car retrofit logistics and capacity to meet the
14 standards outlined in HM-251 and the FAST Act. So I
15 think a good place to start would be for somebody just
16 to describe the retrofit process, to take a -- well, do
17 you anticipate any legacy cars being retrofitted to the
18 117 standards or will it just be the CPC-1232s that are
19 retrofitted?

20 MR. BYRNE: Well, I can answer that. I
21 think, you know, the RSI opinion is, we see as demand
22 decreases for crude, the viability of legacy cars and
23 retrofitting legacy cars kind of diminishes. So one of
24 my expectations would be that there'd be more focus on
25 retrofit of the CPC-1232 non-jacketed cars as opposed

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1 to the, you know, legacy DOT non-jacketed car.

2 MEMBER SUMWALT: Great. Thank you. Would
3 one of you gentlemen be willing to just, sort of,
4 outline very quickly what the process is for a
5 retrofit? I read it, I think, in the Brattle report,
6 all the steps that are required, but just kind of tell
7 us what's required to perform that.

8 MR. BYRNE: I can give you, kind of, an
9 overview. Basically, in terms of retrofitting, and
10 we're talking about physical -- after this has been
11 negotiated with our customers and things, basically,
12 you have to have the car chopped, it's got to be
13 cleaned, okay, then you, basically, have to do any kind
14 of variable repair work, okay, because unlike
15 manufacturing, a retrofit's going to require that the
16 current car is qualified, brought up to standard, this
17 means addressing structural cracks, it could be wear of
18 components, damage to appliances, things like that.

19 All those things need to be done to get the
20 car to a state where it's consistent for the next step,
21 which is, pretty much, like manufacturing, in that,
22 you're going to go through different stages where, say,
23 the appliances are removed, okay? And then the thermal
24 blanket is applied, all right? In a separate station,
25 top fittings modification may be done.

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1 But basically, you're going to install a
2 thermal blanket, you're going to, basically, assemble
3 and apply a jacket, you're going to apply head shields
4 to the car, and then, you know, you're, basically,
5 going to install valves and paint the car, re-weight
6 the car, that kind of thing. That's kind of a general
7 overview of what's required.

8 MEMBER SUMWALT: Perfect. And that's just
9 what we were looking for. And so if everything goes
10 according to plan in a point of time, what are we
11 talking about? We're talking about a month? We're
12 talking about seven days? What are you talking about?

13 MR. BYRNE: I think we're -- it's going to
14 depend on shop backlogs and how you actually manage the
15 flow of cars into the facility, but I think you're
16 looking at, you know, somewhere around 60, 90 days,
17 possibly.

18 MEMBER SUMWALT: 60 to 90 days, okay.

19 MR. BYRNE: And that's if you're doing it
20 efficiently. When I say 60 to 90 days, I'm assuming
21 that there's some investment in jacket fabrication
22 equipment, overhead cranes that can manage the hanging
23 of good sections of jacket, and things like that.

24 MEMBER SUMWALT: Thank you. Now, to be --
25 and, Ken, please.

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1 MR. DORSEY: You were asking about legacy
2 cars and they were talking about the viability. One of
3 the things that you have to remember about the legacy
4 cars, they are generally built as 263 cars, and to go
5 to the new cars, they're going to be 286 cars. One of
6 the large cost differences between a 1232 car and a
7 legacy car is that the trucks are going to need to be
8 replaced or rebuilt, at significant cost, to go to 286.

9 MR. BYRNE: Right. So as you go back with
10 the older legacy cars, there's an extra cost for the
11 castings, the truck castings, and things to get to 286
12 that, you know, kind of affects the economic viability
13 of going back too far.

14 MEMBER SUMWALT: So it's certainly not just
15 an issue of going and putting a jacket on it and
16 sticking a thermal blanket on it. There's a lot more
17 behind the scenes that aren't even apparent.

18 MR. BYRNE: Especially if you're going to
19 contemplate working with the legacy fleet.

20 MEMBER SUMWALT: Right. Bob, you were going
21 to jump in?

22 MR. HULICK: I was just going to mention
23 that an RSI survey that we did during the rulemaking
24 process suggested about 30 percent of the DOT-111
25 legacy tank cars would be retired, for the reasons that

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1 Ken's outlined, you know, additional expense of all new
2 truck castings. You know, I think John's outlined the
3 work process very well.

4 And bear in mind that there's a lot of
5 equipment that's going to be removed from that car just
6 to facilitate the modification, that has to be
7 reapplied to the car, and also, if a car is taken from
8 263 to 286 gross rail load, there's brake system
9 modifications that need to be done, insulation of empty
10 load equipment, and reconfiguration of the rigging so
11 that there's a proper braking level on the more heavy
12 car.

13 MEMBER SUMWALT: Do most of the 1232 cars
14 have the increased truck to allow for the 286?

15 MR. HULICK: Yes, actually, the 1232 cars
16 are 286 gross rail load, so they have the trucks
17 already. It's the legacy fleet. And there is a
18 significant number of those cars that do have the
19 proper trucks. The industry moved to that type of
20 truck for a number of other services, so they were
21 equipped even though they were rated at 263.

22 MEMBER SUMWALT: Great. Thank you so much.
23 So what I'd like to do, Karl and Bob, what -- is there
24 a certification required for a shop to be able to do
25 these retrofits?

1 MR. DORSEY: Yes, sir, there is. I have a
2 list. There's 54 shops right now that would be of a
3 certification that would allow them to do retrofits.
4 Now, as John pointed out, that does not necessarily
5 mean that they have the infrastructure in place to hang
6 jackets or do large-scale heat treatment, post-weld
7 heat treatment, when you're placing standoffs and
8 things like that, so it would be a matter of a will of
9 the shop manager to equip that.

10 Now, some of those are fairly small shops,
11 so when John is talking about, you could do it
12 efficiently, the small shop is going to have to do it
13 as piece work, but they're capable. But my group does
14 certify shops for quality assurance and technical
15 competence to do that kind of work.

16 MEMBER SUMWALT: Thanks. Now, Ray, are you
17 seeing any challenges with the retrofitting?

18 MR. MORGAN: There is no real challenges for
19 the industry, I don't think, right now. The capacity
20 exists to do what the commitments were for retrofits,
21 whether they be the legacy cars or the newer versions.

22 MEMBER SUMWALT: Thanks. John, let me move
23 over to you. The FAST Act requires that thermal
24 blanket retrofits for the non-existing non-jacketed
25 tank cars only. The Act is silent on thermal

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1 protection for existing jacketed tank cars. We
2 understand that, based on modeling, the RSI believes
3 that the existing jacketed and insulated tank cars
4 perform adequately in pool fires and has urged PHMSA
5 and FRA to allow these cars to remain in service as is.

6 Comments?

7 MR. BYRNE: That's correct. Based on our
8 modeling, and some research done by the FRA on
9 fiberglass insulation systems, the existence of a
10 jacket and insulation, basically, meets the pool fire
11 requirement, federal pool fire requirement, and so it
12 would perform per the federal requirement as a thermal
13 protection system, even though it's not listed as, you
14 know, an approved thermal-blanket-type material.

15 Now, we have a request for a waiver on the
16 existing jacketed cars, you know, because the
17 fiberglass isn't listed as an approved material.
18 That's the only reason we have that request in.

19 MEMBER SUMWALT: Okay. Let me get you to
20 clarify something. Okay. So if you have a CPC-1232
21 car, let's see, out in Mosier, they had 1232 cars that
22 breached and so let's find the notes on that. I've got
23 it right here somewhere. Same type of tank cars that
24 derailed in Mosier can be re-stenciled as a 117R and
25 continue in service with nothing more than a bottom

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1 outlet valve handle replacement, is that true?

2 MR. BYRNE: That's correct. And the issue
3 with the car in Mosier was a fire attributable to
4 puncture, I believe.

5 MR. SAXTON: Well, Hal, could probably help
6 there too, but that's how we believe the initial loss
7 of product occurred, with a coupling puncture.

8 MEMBER SUMWALT: And we're not here to get
9 into the FRA's investigation of that, but let's discuss
10 the specs for those cars. They were jacketed 1232s?

11 MR. SAXTON: Yes.

12 MEMBER SUMWALT: And so they had -- did they
13 have 7/16 or 1/2-inch?

14 MR. SAXTON: 7/16.

15 MEMBER SUMWALT: 7/16 and they were jacketed
16 with an 11-gauge jacket.

17 MR. SAXTON: Yes, sir.

18 MEMBER SUMWALT: No thermal insulation.

19 MR. SAXTON: Just fiberglass insulation, no
20 ceramic.

21 MEMBER SUMWALT: Yes, so there's the
22 difference between insulation and thermal protection.
23 So really, to make that car -- you could legally just
24 put a new bottom outlet valve on there and be in
25 compliance with the regulations, but it doesn't have

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1 thermal protection.

2 MR. SAXTON: Rob, I saw you raise --

3 MR. BENEDICT: There's actually two
4 differences for the enhancement from a CPC-1232
5 jacketed to the DOT-117R, and that's the bottom outlet,
6 but also the pressure relief valve, you have to change
7 that out as well.

8 MEMBER SUMWALT: But as far as the vessel
9 itself --

10 MR. BENEDICT: Yes.

11 MEMBER SUMWALT: -- you're still having a
12 7/16 shell, which is okay on a retrofit, you can keep
13 the 7/16 shell because you can't increase the shell
14 thickness economically, and it still has the jacket,
15 but what we're missing is the thermal blanket, and
16 isn't that a key part of protecting against the pool
17 fire for 100 minutes.

18 MR. SAXTON: A couple thoughts I'd like to
19 put on, or put out, one is, a lot of the 1232 cars
20 probably do have a properly sized valve. I think the
21 ones at Mosier did, I won't swear to it. The other
22 thing to know is the result in the Oregon derailment
23 was, there were no thermal tears. It seems to confirm
24 that we might not need that. I'm not saying that. I'm
25 looking at a big smile I'm getting from Karl, because

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1 RSI has this question in front of FRA, what is the
2 interpretation? FAST doesn't tell us what to do here.
3 It's not prescribed.

4 MR. BYRNE: Yes, the FAST only tells us that
5 we don't need to install a thermal blanket unless
6 you're jacketing the car. It doesn't really go back to
7 the existing jacketed cars and that's the issue for us.

8 MR. SAXTON: We're trying to figure it out.

9 MEMBER SUMWALT: Because I read in our
10 recommendation letter that was issued yesterday, let me
11 find it, you know, you can never find something when
12 you're looking for it, but the bottom-line is, is that,
13 there was a study done that showed that the risk of a
14 pool fire thermal rupture was almost non-existent with
15 a blanketed -- with a thermal blanket car, and that was
16 somewhere in this recommendation right here, so thank
17 you, Paul.

18 The AAR stated that the RSI tank car safety
19 project modeled the survivability of different tank car
20 configurations in a pool fire using the analysis of
21 fire effects on tank car model which showed that the
22 use of thermal blankets on flammable liquid -- I'm
23 sorry, on flammable liquid tank cars results in tank
24 cars withstanding pool fires for hours, or in some
25 situations, indefinitely, without product release,

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1 except for the thermal relief device.

2 So I mean, to me, that says it pretty well.
3 That builds a pretty strong case for the value of the
4 thermal blanket.

5 MR. BYRNE: It certainly indicates that a
6 thermal blanket might be better, okay, but in our own
7 modeling, the fiberglass insulation system met the
8 federal requirement for thermal protection.

9 MEMBER SUMWALT: But in reality, in the
10 fiberglass situation, doesn't the fiberglass all just
11 melt, and so when we talk about fiberglass, we're
12 talking about thermal insulation, which is designed to
13 keep the product --

14 MR. BYRNE: Reduces the heat transfer into
15 the tank.

16 MEMBER SUMWALT: It does reduce it, but
17 doesn't it also melt and it'll all end up pooling down
18 at the bottom of the -- in the void between the blanket
19 and the shell?

20 MR. BYRNE: Basically, yes, but at the same
21 time, that whole system acts as a thermal protection
22 system in that it meets the 100-minute requirement
23 based on the federal law.

24 MEMBER SUMWALT: Okay. Thanks. So it meets
25 the requirements. Please, David.

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1 MR. WILLAUER: In a presentation that Phani
2 Raj gave us at the crude oil subcommittee, Phani also
3 pointed out that the product itself in the tank car
4 insulates it from the fire as well.

5 MEMBER SUMWALT: Right. It acts as a
6 heatsink, basically.

7 MR. WILLAUER: Right. And the heat at the
8 top of the car is the issue, where it thins out and can
9 rupture, but the bottom of the cars sometimes still
10 have the paint on them because they're protected by the
11 product.

12 MEMBER SUMWALT: Thank you so much. Karl,
13 you wanted to jump in on this?

14 MR. ALEXY: Okay. I'll start with Mosier,
15 and I agree, Greg, I mean, that -- and all of you guys
16 over there, you're looking at Mosier as being a
17 potential -- it suggests that, you know, just the
18 jacket acts as a nice heat shield, that it works well,
19 but, you know, we look at this as a whole system. So
20 those cars were a little bit more robust, fewer
21 punctured, you only had 30,000 gallons, not even 30,000
22 gallons, on the ground that only burned for a short
23 time, and I don't know that there was any total
24 engulfment of the car in a pool fire. That's one
25 thing.

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1 And we are, you know, looking at your
2 requests. Our concern is, how do we model -- you know
3 AFTAC can handle a single component, maybe two
4 component, lading, so what do we do -- you know, what
5 do we do with this multi-component? How many
6 components are in crude oil? Dozens? Hundreds?

7 And what are those properties that we're
8 modeling in the AFTAC model? So this is an important
9 step forward for us. This approval sets a precedent
10 not only in how we look at that, but also, you know, if
11 we're going to allow, simply, a jacket, or for all
12 intents and purposes we're saying a jacket becomes a
13 thermal protection system, that is something that we
14 have to be very, very careful on, and we're taking our
15 time in evaluating.

16 You guys have done some really good work and
17 we're just making sure we run all these issues to the
18 ground.

19 MEMBER SUMWALT: Excellent. Thank you.

20 MR. BYRNE: Could I just make one comment?

21 MEMBER SUMWALT: I would you would. Thanks,
22 John.

23 MR. BYRNE: With respect to the outcome of
24 this. Okay? This is important to us because of the
25 volume of jacketed CPC-1232 cars. And it's going to

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1 make a huge difference in terms of logistics of the
2 retrofit, because, you know, if we get approval for
3 fiberglass as a thermal protection system, we're
4 looking at, like you say, 20 hours to, basically,
5 convert those cars to 117Rs.

6 If we have to remove the jackets and install
7 a thermal blanket, well, that's going to, basically,
8 limit the number of shops that can do the work and it's
9 also going to affect, you know, the timeline to get it
10 done, because we're talking about hundreds of hours
11 now.

12 MEMBER SUMWALT: So thermal blanket, to be
13 clear, that's, basically, a 1/2-inch of ceramic,
14 basically, is that --

15 MR. BYRNE: Right.

16 MEMBER SUMWALT: Okay. And can we achieve
17 thermal insulation -- excuse me, thermal protection
18 through other means? Have we seen other means or is
19 that pretty much the only way of doing it so far?

20 MR. BYRNE: Right now, it's a thermal
21 blanket, isn't it, Karl?

22 MR. ALEXY: Yes. Well, there's different
23 systems. You're, there's a number of different systems
24 that have been proved as thermal protection systems.

25 MEMBER SUMWALT: Thanks. One thing I want

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1 to know is, what's the difference between a pool fire
2 and a torch fire? So one can withstand torch fire for
3 100 minutes, according to the regulations, torch fire
4 for 30 minutes, so what's the difference?

5 MR. ALEXU: So the regs define a pool fire -
6 - so it's total engulfment. So the entire surface area
7 of that tank is impinged on by a fire at a certain
8 temperature. The torch fire is a more -- you know,
9 it's more directed. It's not nearly as large and it
10 also has a specific temperature as well, so it's just a
11 difference of the overall -- well, difference in the
12 coverage of the tank and the temperature of the fire.

13 MEMBER SUMWALT: Thanks. Ken?

14 MR. DORSEY: Generally speaking, when you
15 run the models that we have, the torch fire does not
16 tend to be the event that fails the car. It's the pool
17 fire that fails the car. Torch fire, the car is able
18 to act as a heatsink much more efficiently, so we're
19 more concerned with the pool fire performance,
20 although, we don't ignore torch fires.

21 MEMBER SUMWALT: Thanks. Could a torch fire
22 occur due to product coming out of a pressure relief
23 valve? You might have answered that and I was looking
24 at another question.

25 MR. DORSEY: Yes, I believe Paul, actually,

1 Cherry Valley, I believe, had one situation where the
2 impingement on the tank simulated, say, a torch fire.
3 I believe that's the only failure I know of, but that's
4 the only one I can think of and you'd be the one to
5 know.

6 MR. STANCIL: We did not cite that in our
7 report. You know, we did not note any evidence of a
8 torch fire at Cherry Valley. I'm not sure if that was
9 another accident.

10 MEMBER SUMWALT: David, I want to ask you
11 about the Cambridge report. I saw a good PowerPoint
12 that you all put together as well as your actual paper.
13 In 2005, you authored a report on the analysis of tank
14 car fleet options for retrofitting the capacity, and
15 you identified three interrelated issues for achieving
16 a safer fleet, shop capacity to perform the retrofits,
17 new car manufacturing capacity, the fleet composition,
18 and projected retirements.

19 You stated that at the time the known
20 capacity of the contract tank cars shops was
21 significantly underreported, the retrofit process for
22 the entire fleet of crude oil and ethanol could be
23 accomplished in six years, not ten years, as another
24 report might have indicated, and the most risky
25 unjacketed tank cars should be addressed first because

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1 they have higher probability of release in an accident.

2 So how has this changed, or has it changed,
3 since that report? I think it was in March of last
4 year.

5 MR. AEPPLI: Let me answer that. I think
6 everybody knows here things have changed quite a bit.
7 And even while we were working on the report, we
8 already saw the substantial decline in crude oil prices
9 and the changing logistics patterns coming out of
10 Bakken in particular.

11 So I think from looking at it from a
12 perspective of the contract shops, that market, they
13 saw that market start to turn, and a number of major
14 projects that were either announced or in development
15 were stopped, and particularly among the shops that
16 were not in the manufacturing side of cars were really
17 taking a very close second look at it.

18 And so at this point, you know, the contract
19 shop manufacturing capacity, or retrofit capacity, is
20 much smaller than, I think, anybody anticipated a year
21 ago. Not surprisingly. We've only seen, maybe, 1000
22 retrofits being done in the last year. And looking
23 ahead, you've got a couple issues. You've got, you
24 know, to buildup capacity, you've got to do two things.
25 You've got to have the infrastructure there to do it

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1 and then you also have to have the workforce that can
2 do the work.

3 And both of those, and in particular, the
4 workforce development, is a big issue for contract shop
5 industry, and given that the demand is, for that kind
6 of work, currently not there, it would take quite a
7 while to ramp up if that demand were to happen.

8 At the same time, you also have a situation
9 where, looking at the demographics of the tank car
10 fleet, you've got a substantial increase in tank car
11 requalification coming along, starting next year, that
12 will keep contract shops very busy with that line of
13 business. And that was something that was also
14 identified both in the Brattle and our report as well,
15 but that is, you know, where the focus is on that
16 industry.

17 Now, when you get to the retrofit question,
18 if there is major demand, I think that demand would
19 more likely be fulfilled on the manufacturing side than
20 on the traditional contract shop.

21 MEMBER SUMWALT: Thank you very much. And,
22 Kevin, you authored -- the Brattle Group authored a
23 report about the same time to comment on the proposed
24 rule, the NPR for what became HM-251, and a lot of this
25 has changed. I mean, it may be moot at this point

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1 because now you're not commenting on a proposed rule,
2 the rule is out there, so it is what it is, but has
3 anything significant changed in your mind when you -- I
4 think your report offered suggestions or predictions on
5 how long it would take to upgrade the fleet.

6 But there again, we've heard now that the
7 capacity, they can meet the demand, but anything you'd
8 like to add since your report?

9 DR. NEELS: Well, I think we've been talking
10 about a lot of the issues here. The oil market has
11 changed. Production is down in the Bakken. The
12 pipeline capacity is up, so I think the size of the
13 fleet that is going to be required to handle this over
14 the long term is lower than people were thinking about
15 when the rule was under consideration. So that means,
16 in some sense, the nut's gotten smaller.

17 I think some of it we've already heard.
18 Some of these cars are being retired and they'll be
19 retired rather than retrofit. And I think also for
20 that reason, given the changes in the economics of the
21 market, I think some of the people who were thinking
22 about tooling up for retrofit are taking a fresh look
23 at the economics, as Andreas said, so probably we're
24 not seeing the capacity that we thought we were going
25 to see, but then the problem's also going to be, I

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1 think, smaller than we thought it was going to be.

2 MEMBER SUMWALT: And again, the folks that
3 are producing the tank cars and retrofitting them, I
4 mean, they've said now that they know what the
5 deadlines are, they can meet them. So, Ray, I'd like
6 to come to you for a second. In the case of leased
7 equipment, who responsible for planning, scheduling,
8 and the changeout of the retrofitted cars?

9 MR. MORGAN: So I'm sorry, let me make sure
10 I understand the question. You said leased cars.

11 MEMBER SUMWALT: Yes. In the case of the
12 leasing equipment, who is responsible for scheduling,
13 planning, and changeout?

14 MR. MORGAN: So with respect to the leases,
15 I'm not going to address that specifically, we'll leave
16 that to the leasing companies, but it's a collaborative
17 effort between the facility that's doing the work, and
18 the company, and other parties that would be involved
19 in those activities, whether it be engineering and et
20 cetera.

21 MR. STANCIL: Will the leaser or the lessor
22 be responsible for doing that work?

23 MR. MORGAN: Okay. So I think Greg may have
24 touched on that question a little bit earlier, but
25 typically, it's the car owner, the equipment owner,

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1 that's responsible for that. Now, there could be some
2 arrangement that's different than that for a particular
3 lease, but typically, it's the car owner.

4 MEMBER SUMWALT: Thanks. Bob?

5 MR. HULICK: This might be a good point to
6 talk about, you know, this relationship is somewhat
7 complex and at the end of the day, the shipper is
8 responsible for the proper packaging of whatever
9 they're going to ship. The shipper is also who decides
10 what type of cars they want in their fleet and how many
11 cars they want in their fleet.

12 And the roll of a tank car owner, when it
13 comes to modification of a car, it's not solely the
14 tank car owner's decision in the lease market. This is
15 something we have a continuous communication with our
16 lessees, and we talk about what their demands are, we
17 advise them, the status of the cars that are in their
18 fleet, and the regulatory requirements so that we can
19 be in compliance as we move forward.

20 But it's not any one party that makes that
21 decision unilaterally. That is something that's
22 discussed amongst the parties. If I might just also
23 talk, just for a second, about, you know, the market,
24 and, you know, I mean, we talk about capacity, but
25 really, you know, the market drives capacity, and I go

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1 back to the comments about new tank car manufacturing
2 and how that's responded to the market, and I think you
3 see the same thing when it comes to a retrofit
4 capacity.

5 And I think if you look at being able to
6 retrofit a tank car, there's a number of steps that
7 have to occur. John went through the steps of the
8 physical activity, but prior to that going on, I can
9 speak for our company, what we've done is a detailed
10 engineering analysis of the variety of car types that
11 you've seen up here to develop a retrofit package for
12 those cars. What is necessary to be done? All the
13 necessary engineering work.

14 Once that is done, we've gone forward and
15 we've done prototypes of the different configurations,
16 well in advance of even the rulemakings, to be
17 prepared. Then once you've done that, you need to
18 submit those for approval at the Association of
19 American Railroads.

20 They, you know, are, you know, essentially,
21 the reviewing faction that takes care of that on behalf
22 of the FRA and Transport Canada. Once you have that
23 approval, then you could go into production and make
24 the modifications, and if you have that approval, you
25 can release those cars into service. So, you know, as

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1 a company, we've gone through all those steps, up
2 through production quantities, of some of the
3 modification types.

4 All this has to come forward and be done
5 before you even talk about capacity.

6 MEMBER SUMWALT: Excellent. Thank you.
7 We're about ten minutes before the end of this session,
8 so Mike is going to go through, and if you've got
9 questions, submit to him, and one thing I want to say
10 too is, I've been calling on specific people, but I
11 think you've kind of picked up on this, but if you've
12 got something to say, we do want to hear from you.

13 So I don't mean to say that, you know, we
14 don't -- if I ask Ben a question, that doesn't mean I
15 don't want Denford to jump in there, so I mean, I think
16 you all are doing great, but please don't think I'm
17 trying to exclude you. So I think the open dialog is
18 good.

19 So, Ken, I want to ask you a question. So
20 let me see if I've got this right. So in HM-251, it
21 did not require an upgrade for the top fittings on the
22 tank cars, for the legacy tank cars, I believe, but
23 then in the FAST Act, it came along and did require the
24 upgrade for the top fittings, I believe, or maybe it's
25 the top fitting protection of the housing.

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1 So what concerns are there for retrofitting
2 the legacy cars with the more robust top fitting
3 protective housings?

4 MR. DORSEY: Well, we worked very diligently
5 and one of the things, of course, you have to worry
6 about is actually the strength of the top of the car as
7 well, but we worked as well as we could to protect the
8 valves. The retrofit top fittings protection would be
9 very similar to a, if you want to call it that, legacy
10 pressure car protective scheme, and it was achievable
11 within a retrofit situation for these shops that have
12 to do the work.

13 MEMBER SUMWALT: And I didn't climb on the
14 top of the tank car to look at it, but some of these
15 guys did, I think that's a 1/2-inch of cast iron, or
16 something like that?

17 MR. DORSEY: Not cast iron.

18 MEMBER SUMWALT: Not cast iron.

19 MR. DORSEY: It would be some kind of a
20 ductile steel, but yes, it's about a 1/2-inch.

21 MEMBER SUMWALT: Has anybody successfully --
22 has anybody upgraded the top fitting housing on the
23 legacy cars?

24 MR. HULICK: We've applied the required
25 fitting protection on cars based on the DOT-117R

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1 requirements.

2 MEMBER SUMWALT: Thanks so much.

3 MR. HULICK: And again, that is necessary to
4 get the approval so that we could produce those cars
5 and have them released to service.

6 MEMBER SUMWALT: Great. Thanks. Let me ask
7 a question, not asking anyone to reveal competitive
8 pricing information, but just in a general sense, what
9 are the relative cost of retrofitting versus a cost of
10 building a new 117 car? Just in a general sense, or if
11 that's not a question you're comfortable answering due
12 to proprietary reasons, then that's okay too.

13 MR. KLOSTER: Maybe I should take that since
14 I don't have a dog in this hunt. So it all depends on
15 what car you're starting with. So if you start with
16 the worst car, the car that's going to have the most
17 expense, you're obviously going to be with a legacy
18 ethanol, you know, DOT-111 car that's, you know, 263
19 and non-insulated, non-jacketed car, and so the cost to
20 jacket that car, with all the work required, is
21 probably between \$30,000 and \$35,000.

22 Then you're going to have to go a 286
23 because you're adding a lot of weight to the car, so
24 you want to be able -- now, the shell capacity doesn't
25 change, but the weight of the car does, which means

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1 you're not going to be able to fully load them as much
2 so you need to go to 286 to get that weight back, so
3 now you'll be able to fully load that 30,000-gallon
4 car, but that retrucking that's been referred to before
5 is probably close to, well, at least 20, depending on
6 what your leverage is with the suppliers of those
7 components, but probably between \$20,000 and \$25,000.

8 And then all the rest of the things you do
9 are probably going to be, you know, \$10,000 to \$15,000.
10 So, you know, back two years ago when the comments were
11 going on and we did all the research for this, you
12 know, we were coming up with numbers that were low 70s
13 to mid 70s, so \$72,000 to \$75,000.

14 My understanding today is -- and that's all,
15 you know, projected, but now that we have people
16 actually doing it, and there are DOT-111 legacy cars
17 that are being retrofitted right now, not huge, huge
18 numbers, but they are, and the cost is probably
19 between, you know, \$65,000 and \$70,000, which is what's
20 expected, you know, because, you know, when the rubber
21 hits the road and people actually start quoting, you
22 know, the numbers start to get more realistic.

23 MEMBER SUMWALT: And that's just to
24 retrofit. Not in those figures are the fact that you
25 had to go out and buy the tank car a few years earlier.

1 MR. KLOSTER: Well, and that's an issue
2 because when were these cars built? They were built
3 in, you know, the mid-2000s and these cars were built
4 to last 50 years. Leasing companies generally
5 depreciate their tank cars over 30 years down to a
6 scrap residual, so easy math. If you had a \$100,000
7 car, and you depreciate over 30 years down to a \$10,000
8 scrap residual, you've got -- you know, and you're ten
9 years into that car, you still have \$60,000 worth of
10 that car on the books, that if you replace it with a
11 new car, that has to be dealt with.

12 So now you've got a \$60,000 event called
13 writing it down, but then you have to replace it with a
14 new car, which, at the height, were above, in the 140s
15 and 150s, even projected for 117s, into the 160s, which
16 I don't know what the exact cost is right now, but it's
17 still well above \$130,000, so now you've got close to a
18 \$200,000 event, buy the new one, write down the old
19 one, and so that's why, when you look at it, you say,
20 you know, you're doing the analysis, the fleet owner,
21 whether it's a leasing company or a shipper-owned car,
22 the retrofit is always going to win economically
23 because you're preserving that asset.

24 The problem is, is that, that decision is
25 not made purely on economic factors, particularly with

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1 the shipper. Even if they're leasing the car, the
2 shipper is still going to go through, you know, the
3 beneficial owner of the commodity, okay? He's still
4 going to ask the question, what version of that car do
5 I want to move my commodity in? And so the risk people
6 are going to become involved.

7 And when you start to add -- you know,
8 that's qualitative down to quantitative, and they end
9 up putting a number on that, and when you look at the
10 risk of being -- you know, having that event, and being
11 involved in it versus, you know, paying a little more
12 for a car, whether you're leasing it or buying it, you
13 know, yourselves, and you're a shipper, that's still
14 the decision process that most shippers go through, and
15 I think more than not, are ending up on the side of,
16 I'm going to go to the 117J because the last thing I
17 want to do if I'm ever in an event and I'm in a
18 litigious situation and the opposing side says, so tell
19 me again why you chose that 117R and not the new car,
20 and your only good answer is to save a little money,
21 that's not going to fly.

22 MEMBER SUMWALT: You should be a new tank
23 car salesman. But let me ask you this. So does, when
24 we retrofit a car, that extend the legal life of that
25 car? I think a tank car is limited by regulation to 40

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1 years?

2 MR. KLOSTER: No, it's -- well, every car
3 built today is automatically a 50-year car.

4 MEMBER SUMWALT: Fifty years.

5 MR. KLOSTER: That whole Rule 88, get the
6 extra ten years thing, died two years ago. So, you
7 know, if you retrofit a car, you're still stuck that
8 original --you know, there is a mechanism to go beyond
9 50, but that's not going to be applicable in the tank
10 car world.

11 MEMBER SUMWALT: Got you. Good. Any other
12 comments on that?

13 MR. AEPPLI: I just want to make a comment
14 on the longevity of tank cars. They generally don't
15 make 50 years anyhow, at least in the product that they
16 were designed for, in contrast to a lot of other
17 fleets.

18 MEMBER SUMWALT: Thank you. Any other
19 comments on that? Great. So this is from the
20 audience? Okay. I'll just read it the way it is. I'm
21 not trying to process it. What would we consider --
22 why would we consider any variants for thermal
23 protection? The 1/2-inch insulating blanket clearly
24 needs -- is clearly needed for safety, even on the CPC-
25 1232 jacketed cars. You want me to read that again?

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1 Is the question clear?

2 Why would we consider any variants for the
3 thermal protection? It's there for safety reasons. I
4 think that's the long and the short of it, and I think
5 we've kind of already heard some answers on that, but
6 let's just closeout on that one. John?

7 MR. BYRNE: We would consider it, basically,
8 because it meets the federal standard for thermal
9 protection the way it is, and there's a significant
10 cost to removing a jacket and installing a thermal
11 blanket for an incremental thermal protection benefit.

12 MR. KLOSTER: So there's a difference
13 between insulation and thermal protection. Insulation
14 is to keep the heat in, thermal protection is to keep
15 the heat out. Insulation is the decision that's made
16 by the user of the car, the shipper, because of what
17 commodity he has.

18 Insulation, I think, has been found, and I'm
19 not an engineer, but I work with a lot of them, to
20 John's point, to provide, you know, sufficient thermal
21 properties based on, you know, what the rules are,
22 right? So the issue here is not on new cars, it's not
23 on retrofitting cars that never had insulation, it's
24 what do you do with the cars, basically, the CPC-1232s,
25 that were jacketed and had insulation?

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1 If you have to take that jacket off and put
2 thermal protection on, you might as well go back to
3 your legacy ethanol car cost of, you know, \$70,000-plus
4 or almost \$70,000. Now, this goes back to Karl's point
5 about, this is a system, okay, so it's not just the
6 insulation. It's also the safety relief valve, it's
7 also the -- the other one, a mental block.

8 It's basically the two different, you know,
9 valves, and as a system, and what it's intended to do
10 as a system is to prevent a BLEVE, to prevent a
11 catastrophic explosion, to lengthen the time before you
12 buildup the pressure in the car until that happens so
13 that the first responders can get there and do what
14 they need to do.

15 So at the end of the day, you can affect the
16 thermal properties of the car through those other two
17 means, the safety relief valve and the pressure relief
18 valve. Thank you.

19 MEMBER SUMWALT: Thank you very much.

20 MR. ALEXY: If I can just point out one
21 thing. You know, I can tell you that we will not
22 approve this as a thermal protection system. There's a
23 specific requirement for that, right? It has to
24 prevent that wall temperature from meeting 800 degrees.
25 If you guys want to run the test and do that, I mean,

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1 these are important things. These are subtleties and
2 now's not the time to get into them, but it's very
3 clearly defined what a thermal protection system is.

4 What we're talking about is a special
5 approval to allow these cars -- to recognize these cars
6 as having met the performance standard in a pool fire.

7 MEMBER SUMWALT: We're going to closeout
8 here, but I want to go out and just say something from
9 a personal point of view, I've been at the board for
10 ten years and I'm not always very optimistic about how
11 quickly rules can be formed, final rules, you know, for
12 a good reason, there's a very specified and
13 bureaucratic process, and it's usually we are saying
14 that the regulators should do something, and then when
15 they don't, we say they didn't, then we tell them about
16 it.

17 But I think that this HM-251, from a
18 regulatory point of view, is a success story in terms
19 of timing and content. You know, the notice of
20 proposed rulemaking, I think, opened up, I think,
21 around October the 1st of '14, and the final rule was
22 issued May the 8th, so what is that? Five, six, seven,
23 eight, eight months later. They had to go through 3200
24 comments, the response, they have to respond, as you
25 know, to each of the comments in a general form, and

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1 it's over 100 pages in length.

2 And, you know, I've seen -- I have seen NPR
3 final rules get held up in the Office of Secretary of
4 Transportation and OMB for, literally, three years.
5 Literally. We had a helicopter rule come out two and a
6 half years ago. It spent three years just in some
7 bureaucratic review process. You guys, thank you for
8 your hard work. I just wanted to say that from a
9 personal perspective.

10 Let's take a break for lunch. We'll be back
11 at 1:15. Be careful on the one-way steps out there.
12 Thank you.

13 (Whereupon, the above-entitled matter went
14 off the record at 12:02 p.m. and resumed at 1:17 p.m.)

15 MEMBER SUMWALT: Welcome back. Couple of
16 things. First, thanks for coming back after lunch. I
17 think we've had a great session this morning and
18 hopefully you feel that good information has been
19 exchanged. Couple of things. Housekeeping. There are
20 surveys in the back of your folders, basically,
21 evaluation forms, so if you would, when you leave, just
22 leave them on the table up there. We would love to
23 hear your thoughts about this.

24 This is only -- a roundtable like this is a
25 unique event. Nicholas, is this really only the second

1 fully dedicated roundtable we've had? We had one a
2 little over a year ago on distractions and
3 transportation, and so we would love to know what we
4 can do differently, and what you liked, and also, for
5 those of you in the in-person audience, there's surveys
6 out there as well, so we would love to get your
7 comments too.

8 Another thing, just so you can start
9 thinking about this, at the beginning of the next
10 panel, the one after this one, one question I'm going
11 to do is get everybody to go around the room and say
12 what is the one thing you want to see done to make a
13 difference in the shipment of -- the safe shipment of
14 flammable liquids by rail? And so at the beginning of
15 the next panel, the fifth panel, we'll just go around
16 the room and ask your thoughts.

17 Just wanted to kind of give you a little bit
18 of advance notice of that so you could think about that
19 for a second. So let's do a few cleanups from -- a few
20 cleanup questions. We've gotten some from the
21 audience, both the Internet audience and the in-person
22 audience, and here's one that -- well, go ahead, Paul.

23 MR. STANCIL: So I'll read a couple that
24 we've gotten here just at the end of the last panel.
25 Thermal protection systems approved by 49 CFR 179.18(c)

1 must demonstrate the ability of the system to maintain
2 backplate temperatures below 800 degrees Fahrenheit
3 throughout a 100-minute pool fire and a 30-minute torch
4 fire under Appendix B test methodology. Will DOT
5 consider favorably on the AAR tank car committee
6 recommendation to PHMSA to lower the backplate
7 temperature to 550 degrees Fahrenheit?

8 MR. MAJORS: We have considered lowering the
9 backplate temperature to what was recommended, however,
10 we feel like that would create, you know, a different
11 standard for flammable liquid cars versus other
12 materials which require thermal protection, so we kind
13 of want to look at it globally before we make that
14 decision.

15 MR. STANCIL: Anyone else want to weigh-in
16 on that? Okay. The next question, this comes from one
17 of the railroads, Class-I railroads, we are not seeing
18 an increase of CPC-1232 cars and ethanol as there were
19 3790 used in 2015 and only 3178 used in Q1 of 2016.
20 Shouldn't a lot more of the 1232 cars be quickly
21 switched over to ethanol? And he notes that these
22 could potentially replace many of the DOT-111 legacy
23 cars.

24 MR. KLOSTER: I can maybe sound off on that
25 a little bit. So yes, we have these big fleets, but

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1 they're the sum of a lot of leases and a lot of
2 ownerships by ethanol companies, and I think, given the
3 fact that the implementation date for ethanol is so far
4 out in the future, the ethanol companies are going to
5 leverage that imbalance, you know, more cars than are
6 needed from an economic standpoint, and I think,
7 generally, a lease rate for a 111 versus a 1232,
8 there's going to be a difference.

9 So then it's going to get into, you know,
10 more of a risk decision at the shipper, what do I buy,
11 what do I lease? And if they feel that, you know, the
12 extra economics that they have to, you know, build in
13 for a CPC are worth it, they will, but the timing, you
14 know, you don't go and just, I need 1000 ethanol cars
15 and my leases are spread out over the next five years.
16 You don't go and -- you can't just give those cars back
17 and upgrade to the 1232s. You've got to wait for the
18 expirations.

19 And so given also that the 1232s didn't
20 start to get built until, you know, 2012, and
21 generally, those leases were, you know, five, you know,
22 years or so, we haven't started to see the return wave,
23 you know, back to the leasing companies that, you know,
24 we will see in the future.

25 So yes, there are surplus cars, but they're

1 cars that are on lease that they just don't need and
2 they're from crude, say, and they're just sitting in
3 storage, but they're still, you know, "spoken for" from
4 a lessee perspective. So I see that building over
5 time, but it's just early on right now.

6 MEMBER SUMWALT: Excellent point.

7 MR. SAXTON: And, Paul, if I can add one
8 thing to that. I agree with everything he said, but
9 also, for reasons we talked about earlier about, those
10 crude cars are not optimal for ethanol, and that's an
11 issue.

12 MEMBER SUMWALT: Okay. When you say, not
13 optimal for ethanol, how do you mean, that once they've
14 been used, they cannot be used for ethanol?

15 MR. SAXTON: Well, volumetrically, because
16 the density is a little bit different between these two
17 commodities, they are not the car you want to maximize
18 the amount of ethanol you can move per carload. Fair
19 enough? Kelly?

20 MS. DAVIS: Which car are you talking about?

21 MR. SAXTON: If you're moving crude into --
22 a car that was optimized originally for crude, it may
23 not be the right size, the most ideal size, for
24 ethanol.

25 MS. DAVIS: Are we talking the 1232 car or

1 the legacy DOT-111s? Yes, the 1232s, right?

2 MR. SAXTON: Yes.

3 MR. STANCIL: So the point was, they weren't
4 seeing a corresponding increase in the use of CPC-1232
5 cars with the removal of DOT-111s.

6 MS. DAVIS: I do believe that Richard spoke
7 to the root of the cause and I think you will see more
8 of the switchover as leases come due. And generally,
9 an ethanol producer doesn't have, you know, one lease
10 for his whole fleet. It's not all at once. There's a
11 strategy to the way you lease the cars and the timing.

12 DR. NEELS: Can you explain what is it about
13 the 1232 cars that makes them unsuited for ethanol
14 service?

15 MS. DAVIS: I would like that explained too.
16 I don't have anything on that.

17 MR. SAXTON: Well, I don't call them
18 unsuitable, but the density is a little different
19 between ethanol --

20 MS. DAVIS: We have a light liquid. Our
21 product weighs, typically, about, you know, 6.7 pounds
22 per gallon, or so.

23 MR. SAXTON: So in some cases, you won't be
24 able to fully load that car to 286.

25 MS. DAVIS: That's why I was asking you the

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1 tare weights and stuff. I don't know the tare weights
2 on a 1232. That's the type of --

3 MR. SAXTON: I'm not saying that's always
4 the case, but it will be the case for some of these
5 cars.

6 MR. KLOSTER: So a little context on -- so
7 if you're a shipper, it's a little bit different for
8 leasing companies, but if you're a shipper of, say,
9 ethanol, you know, the builders, Greenbrier or Trinity,
10 whoever, they don't just have one car design, one large
11 GP design, they have several. And those cars have
12 slightly different specifications for the commodity
13 that the buyer of the car wants to use.

14 So, you know, an ethanol producer is going
15 to buy a car that's optimal for ethanol, even though
16 crude might be slightly different and could be used,
17 but to Greg's point, not 100 percent transfer. A
18 leasing company will look at it, if they're buying a
19 car specifically for someone they already have a lease
20 for, they may spec it out that way, or they may spec it
21 so it can go both ways.

22 And a great example of that is that, when
23 the Bakken came -- you know, started to grow and we
24 started building cars that were non-coil down
25 insulated, almost just like the ethanol cars, but then

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1 the heavy crude out of Canada, which was about two
2 years later from a build cycle, started up, and those
3 cars needed coils and insulation.

4 So a lot of the leasing companies looked at
5 it and said, well, wait a minute, if I build that non-
6 coiled, non-insulated car in Bakken, I can't market it
7 up in Canada when I might need to, so I'll most common
8 denominator it and build a coiled and insulated car,
9 which, from a downside for the Bakken people, resulted
10 in the car is heavier, so it has a little bit lower
11 gallonage, but that's a decision that a leasing company
12 makes because they look at their whole portfolio and
13 they generally have a, you know, more of a portfolio
14 mixed managed approach, so they don't want to have too
15 many of this, too many of that, they want to have cars
16 that have the broadest possible application.

17 MR. HULICK: I think there's a little
18 confusion on the question. Was not the question about
19 why there are fewer CPC-1232 jacketed cars in ethanol
20 service in 2016 versus 2015? Is that --

21 MR. STANCIL: It didn't say jacketed car.
22 The question said, we are not seeing an increase of
23 CPC-1232 cars in ethanol as there were 3790 used in
24 2015 and only 3178 in 2016.

25 MS. DAVIS: One of the things I see here is,

1 you need to understand that the 2015 data is probably
2 for the whole year and the 2016 data would just be for
3 one quarter, it's a snapshot, so I would defer to the
4 American Association of Railroads to maybe we shouldn't
5 be looking at these numbers to be as accurate as we
6 think they are, you know?

7 So to look at that and say we're going down,
8 it's not necessarily of a snapshot, comparing a quarter
9 to a year might be --

10 MR. FRONCZAK: That's probably the
11 explanation.

12 MS. DAVIS: I mean, Q1, if it was Q1 for all
13 of the years, I think we could maybe compare apples and
14 apples, but --

15 MR. STANCIL: Okay. All right. Rachael has
16 one more from the audience.

17 MS. GUNARATNAM: This is regarding the
18 length of the train. Earlier, it was noted only 1
19 percent of ethanol is shipped in unit trains over 100
20 cars. Most crude oil unit trains that have been
21 involved in accidents are over 100 cars. Can the panel
22 comment on train length as a potential risk factor?
23 Could required shorter trains improve safety and keep
24 more trains on the tracks?

25 MR. ALEXY: I can mention that in the

1 rulemaking, we looked at the distribution of the first
2 car derailed and trains. And when you start to look at
3 -- most of them happened at the front of the train,
4 most of the derailments happened, and then it drops off
5 gradually as you go back in the train.

6 So I mean, the risk of the longer train is,
7 you know, you have a derailment up front, you have more
8 weight pushing against the derailment, but like I said,
9 I think that's probably one of the larger risks that
10 we're looking at with that.

11 MR. FRONCZAK: Yes, the additional factor, I
12 guess, would be, if you were to say, keep the train
13 shorter, now you're going to have more trains, which,
14 you know, adds an additional level of risk, so I mean,
15 I'm not sure it would balance out.

16 MS. GUNARATNAM: I just had a follow-up
17 question to that, what about mingling the 117s and the
18 111s in one long train line, does that improve safety
19 by having some 117s or intermingling, that --

20 MR. FRONCZAK: I mean, having more 117s is
21 always going to improve safety, in my opinion. In
22 other words, those cars are going to have a less of a
23 chance to breach in a derailment. I don't think
24 there's any problem mixing 111s and 117s, but the 111s
25 are going to have the same probability of release that

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1 they had, you know, before, they're just going to have,
2 you know, a higher likelihood of rupture, and, you
3 know, but throwing 117s in there is going to do nothing
4 but help, in my opinion.

5 MR. STANCIL: Okay. Member Sumwalt.

6 MEMBER SUMWALT: Thank you very much. Let
7 me -- let's see, so really, when I said that I'll ask
8 that one question, that will actually be in our final
9 discussion point, not in the fifth discussion, because
10 we really have, Topic 5 is the path forward, but also
11 the final discussion, so I'll ask that question when we
12 get -- after the break at 3 o'clock, looking at the
13 agenda.

14 I'd like to remind folks that if you're in
15 the Internet audience you can submit questions, and
16 Diedre's going to put it up right here. Here's the
17 email address that you can use for submitting
18 questions, and we are getting great response, great
19 questions from the Internet and from those of you in
20 the boardroom, so thank you for those great questions.

21 So logistically, this next panel will run
22 until about 2:15, and then we'll switch to Topic 5.
23 But before we do that, something that I want to
24 clarify, Bob, in the AP, Associated Press had an
25 article this morning, and it quoted AAR figures, and I

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1 think it said, basically, something like 20 percent of
2 the 50,000-some-odd tank cars have already been
3 retrofitted, and I was wondering what the 50,000 sort
4 of a number represented.

5 And so I was just -- I couldn't quite -- I
6 was talking to somebody at lunch and I couldn't quite
7 come up with what that 50,000 number was.

8 MR. FRONCZAK: Ed, do you want to comment on
9 that? Ed Greenberg is from our communications
10 department, so he would have had input into that.

11 MEMBER SUMWALT: Thanks, Ed. Come on down.

12 MR. GREENBERG: Bob, that was from the
13 19,000 plus the 31,000 from your charts; from that
14 quarter.

15 MEMBER SUMWALT: The AAR handout.

16 MR. FRONCZAK: So that's crude and ethanol;
17 the total fleet for crude and ethanol.

18 MEMBER SUMWALT: That's what I was
19 wondering. Although, when I added them up, I got
20 something like 47,000, or so, and that's why, in my
21 mind, I was wondering. It's the last slide from the
22 AAR. I think it's the very last one. And so --
23 actually, no, it's the one -- it's this one here.

24 MR. FRONCZAK: Yes, 19,710 and 31,870.

25 MEMBER SUMWALT: Okay. Yes, maybe it's that

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1 one right there. I'm sorry.

2 MR. KLOSTER: The answer to your question is
3 116 out of 50,000; on your sheets.

4 MEMBER SUMWALT: Yes, see, if I take the
5 17,000 there, plus that, I get about 46,000, 47,000,
6 48,000, so that's why I was wondering, so when we
7 reference that 40,000 figure, it's the ethanol and the
8 crude oil fleet. Okay. That's fine. And I just
9 wanted to know what we were referring to, so really,
10 that number -- so what I read this morning, I believe,
11 Ed, was about 20 percent of those tank cars that are
12 used in crude or ethanol have been retrofitted -- have
13 been upgraded one way or the other to the 117 standard;
14 new or retrofitted.

15 MR. KLOSTER: I don't know if I agree with
16 that. Just by the numbers that you've presented here.
17 In the first quarter, during the first quarter, there
18 19,710 unique cars that moved crude. There were 31,870
19 unique cars that moved ethanol. That's where you get
20 the 50,000. Then if you look on you see how many 117Rs
21 were there, you see 116 in crude and 0 in ethanol.

22 Now, I happen to know that the companies
23 that are doing retrofits now didn't really start to do
24 that in earnest until right around the end of the first
25 quarter, so today, that 116, and that 0 in ethanol,

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1 probably a lot bigger, but I can't imagine that that
2 number today totals more than 1000 cars. That's just
3 my math and my perspective.

4 MEMBER SUMWALT: That's great. And, Ed, I
5 am going to welcome you to jump in on there because,
6 no, I think this is a good discussion here. Please.

7 MR. GREENBERG: And I should be fair, this
8 was a discussion with a reporter and we made it clear
9 that the 10,300 was -- those are active or available.
10 They weren't necessarily in service, that they were
11 active cars or available.

12 MR. KLOSTER: Are you including the 117Js in
13 those?

14 MR. FRONCZAK: Yes. I mean, it's a little
15 bit of an apples and oranges story. In other words,
16 there's 50,000 cars in crude oil and ethanol service
17 actively in the first quarter of 2016, and there are a
18 little over, you know, 10,000 DOT-117, 117Rs, that are
19 active, okay, but not all of those cars are necessarily
20 in crude oil or ethanol, so you're comparing apples and
21 oranges a little bit there.

22 MEMBER SUMWALT: Good. Thanks for the
23 discussion, and, Bob --

24 MR. HULICK: There's also, on the new tank
25 cars that are in service, they could be constructed,

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1 registered, numbered, and released, but have not yet
2 carried a load, so they're in the count, the 10,000-
3 some car count, but they may not yet show up in the
4 first quarter results for shipments, they've moving
5 into service. Same could be true with some number of
6 the modified cars.

7 MEMBER SUMWALT: Thank you.

8 MR. FRONCZAK: That's not the case here.
9 The 10,000 are active, there's another 1000 that are
10 preregistered.

11 MR. HULICK: But again, when I say active,
12 they are registered and viable assets, but they may not
13 yet have carried a load.

14 MR. KLOSTER: Which means you're not going
15 to capture these because I'm assuming how you got to
16 this number was, you looked at all the train records
17 and said, you know, the weigh bills and all that kind
18 of stuff and said, you would have to, because you need
19 to know what the STCC code was for crude versus
20 ethanol, look over that period of time and say, you
21 know, what were -- I mean, that's generally how I
22 understand, you know, Rail Inc., or you guys, do that
23 kind of study.

24 And so what Bob is saying is, you build a
25 car and you register it or it becomes active, it goes

1 into storage, it's still a car, but it's never going to
2 hit that usage count because it never had a train
3 message, or weigh bill, other than going from the
4 manufacturing facility to the storage yard.

5 MR. HULICK: Right. But to be clear, I did
6 not say it went into storage. It may be in transition
7 from the manufacturing site to its first load, so it
8 has not shown up in Train 2 as having had a load.
9 That's the difference that I'm trying to illustrate.

10 MEMBER SUMWALT: Okay. Good. It's clear as
11 mud now, but let the -- it's great to have the
12 discussion and I would like to sort of sort it out in
13 my own mind, but I guess I'll just have to do that
14 offline. Bob, did you want to say one other thing
15 before we start into this next panel; on to this next
16 topic?

17 So we will now start officially into the --

18 MR. MORGAN: I'm sorry.

19 MEMBER SUMWALT: Yes, please, Greg.

20 MR. MORGAN: On additional small comment.

21 That same analogy is true, although much smaller scale,
22 of the R cars. There are R cars that are in storage
23 today that were retrofitted.

24 MEMBER SUMWALT: Okay.

25 MR. MORGAN: So it's the same analogy,

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1 smaller volume.

2 MEMBER SUMWALT: Got it. Thank you. So
3 we'll move now to the Topic 4, which is factors
4 influencing new tank car owner decisions to purchase
5 the new 117 tank cars or retrofit the existing fleet.
6 So, Andy and Bob, we've heard that some Class-I
7 railroads are refusing new flammable liquid business
8 unless it's transported in a 117 compliance tank car.
9 Is there any truth to this? I'm not even sure that's
10 legal.

11 MR. FRONCZAK: I am not going to take that
12 question. I mean, there are antitrust regulations. We
13 cannot, you know, talk at all about what our numbers
14 do, you know, from a rate standpoint in incenting their
15 shippers to do anything, so I'm not going to touch
16 that.

17 MEMBER SUMWALT: Okay. No, thank you very
18 much.

19 MR. ASH: At the risk of repeating what Bob
20 said, yes, it's highly inappropriate for us to put
21 words in our members' mouth.

22 MEMBER SUMWALT: Okay. It's probably not
23 even legal anyway. If it's legally presented, if it's
24 presented in a legal container, being a common carrier,
25 the railroads have to accept it, is that true?

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1 MR. ALEXY: That's the way I understand it.

2 MR. KLOSTER: Well, maybe I can take this
3 question since, again, I don't have a dog in the hunt.
4 So the railroads have to accept the freight because of
5 their common carrier obligation, but does that not mean
6 that they can't charge whatever they want to charge for
7 that.

8 MEMBER SUMWALT: Right.

9 MR. KLOSTER: And so my understanding right
10 now, and without, like, naming specific situations that
11 I'm aware of, there are railroads who have said, I will
12 still allow a flammable, say, crude or ethanol, or even
13 the other flammables, you know, gasoline, things like
14 that, to move in a 117R in, you know, single-car, small
15 units, but when you get to unit train sizes, there are
16 significant price differences in what it will cost you
17 to ship a 117R and a 117J.

18 So you start reading between the lines and
19 what you realize is, this is influencing safety and
20 behavior through the economic realities of the
21 marketplace.

22 MEMBER SUMWALT: Great. And it's a good
23 question and a good point, and I really do want to ask
24 that in the next panel when we start looking at
25 innovative ways, so we might want to talk about

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1 tariffs, for example, or investment tax credits, or
2 something, for upgrading, so that's a great tee-up for
3 that, and I thought -- so good.

4 And you guys answered that the way that, you
5 know, we said yesterday, we don't expect you to violate
6 any anti-trust issues or proprietary issues, so thank
7 you for keeping us straight there. Suzanne, we
8 understand that with milestones, everyone in the NTSB
9 has called for milestones, I think you were in the
10 first session, you were in the audience, and we talked
11 about milestones, and so we, the NTSB, have called for
12 milestones, we know what the dates are, the deadlines
13 are, and we've asked PHMSA to have milestones to sort
14 of check the progress of how things are going.

15 But without milestones, all fleet owners are
16 confronting uncertainty. Can you talk about or do you
17 have any opinions about advantages or otherwise from an
18 economic perspective of delaying -- well, it's kind of
19 an incongruent question here, so we've got -- are there
20 advantages from an economic perspective of delaying
21 upgrading to the 117 cars from the petroleum
22 perspective?

23 MS. LEMIEUX: Let me think about that for a
24 second.

25 MEMBER SUMWALT: And again, if it's anti-

1 trust or proprietary then just don't even go there.

2 MS. LEMIEUX: Yes, I mean, each members is
3 going to make a decision based on market conditions,
4 where they operate, what their other transportation
5 options are, what their leasing options are, whether
6 they own cars or they don't own cars, and so I don't
7 think -- and it depends on your level of risk, your
8 risk tolerance, I mean, there are a lot of factors that
9 are going to go into that decision, so I think it's a
10 case-by-case determination that a producer or, you
11 know, a transporter would need to make.

12 MEMBER SUMWALT: Thank you.

13 DR. NEELS: And I could add to that, maybe a
14 little bit, I think there's risks on the upside and the
15 downside that -- I mean, if you postpone the upgrading
16 decision you may find yourself without the fleet you
17 need because it can't be legally operated in the
18 service when the time comes. On the other hand, if you
19 modify in advance, then there's a risk that you may
20 have misjudged the market and wind up with spending
21 money on cars that you're not going to need.

22 So that's kind of the uncertainty that
23 everybody's trying to unravel right now.

24 MEMBER SUMWALT: Great point. And that's
25 kind of what we're trying to get it, is what are the

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1 market forces looking like for driving the tank car
2 replacement or retrofit. Denford, I want to come to
3 you. We understand that, certainly, Hess has a large
4 fleet of tank cars and given that cars and unit train
5 service are operating with significantly higher mileage
6 than tank cars in other service, are your cars seeing
7 more frequent maintenance, those in the crude oil
8 business?

9 As I recall, it seems like I saw a figure
10 that for ethanol, the average distance is something
11 like 900 miles traveled and for crude oil it's
12 something in the order of 1300 miles. Seems like I saw
13 those figures somewhere in some report, but give or
14 take, so are you seeing greater maintenance for the
15 crude oil fleet?

16 MR. JAJA: The short answer is yes. They're
17 putting more miles on the cars so they're going to
18 require more maintenance, specifically, the wheels, for
19 instance. We are seeing more maintenance on those, so
20 yes, we are.

21 MEMBER SUMWALT: Thank you very much. So
22 another big question, and I think we've already talked
23 about some of these things, but at what point does the
24 cost of retrofitting exceed the remaining service life
25 benefit? Who would like to take that over here?

1 MR. KLOSTER: Well, if we're talking about a
2 CPC-1232 that gets retrofitted, that, you know, was
3 built in the mid -- you know, late 2000s, they're not
4 that old, so there's a lot of life left in it. And I
5 forgot who made a comment about, maybe it was Andreas,
6 you know, we build the cars for 50 years, but they
7 don't last that. Tank cars probably are, you know,
8 miss that 50-year more than any other car. A lot of
9 it's because of technological obsolescence.

10 Also, there are so many different varieties
11 of tank cars, when you get down to the commodities that
12 go in there, that also have an effect of shortening up
13 the life. So my perspective is, is if you've got a,
14 you know, less than ten-year-old car, and you're going
15 to look at the economics, you know, you're not going to
16 spread that over, you know, a 10, or a 15-year, or a
17 20-year remaining life. You pretty much have that
18 full, or almost that full, 30 years of life, like you
19 would do your economics on a new car.

20 Leasing companies don't do their economics
21 on expecting that car to live 50 years. It's generally
22 30 years. So I don't know that it would be that big of
23 a difference because of how young the candidate cars
24 would be.

25 MEMBER SUMWALT: So maybe the driving factor

1 there is the age, or the youngness, of the fleet. If
2 it's a newer tank car, there might be more advantage to
3 retrofitting it versus if it's a very old car. Did I
4 characterize that --

5 MR. KLOSTER: Well, like I said before, you
6 know, economics are always going to beat of a retrofit,
7 because you preserve the old car, a new car. So I
8 think the differentiator in the decision is going to be
9 what that particular company's attitude toward risk is
10 and what kind of car they want to move their product
11 in.

12 You know, so it will be, you know, a lot of
13 cases where, you know, economics win all the time, but
14 risk trumps economics in some cases.

15 MEMBER SUMWALT: Right. Kevin?

16 DR. NEELS: I think you also have to
17 evaluate this in the context of the specific markets
18 that these tank cars are serving. It's not just a
19 matter of the technical lifetime of the tank car. A
20 couple years ago, the demand for tank cars in crude oil
21 service was exploding. I've never seen the rates, but
22 I would imagine the rates were much better than that
23 you got for leasing than you could get now when you
24 have lots of cars in storage and excess demand.

25 So the rates that the lessors are getting

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1 when they're being used are less. Probably the -- you
2 know, your ability to place them is a little iffy and
3 there's a question of whether the market will still be
4 there 20 years down the road when the tank car still,
5 technically, is usable.

6 So I think you have to -- to answer the
7 question, you'd have to run the numbers and think about
8 what the lease rate is, what's the chance you'll be
9 able to keep it utilized and on lease over the
10 remaining technical lifetime.

11 MEMBER SUMWALT: Thank you. Suzanne, if,
12 you know, with the downturn of the oil market, there
13 are a number of tank cars that are parked now that were
14 in crude oil service. Any idea why those tank cars,
15 since they're sitting idle, why they're not being
16 upgraded now? Any thoughts on that one?

17 MS. LEMIEUX: I think that's probably also a
18 function of the market. You know, if you have the
19 incentive to retrofit, if you think, you know,
20 projecting out your business, those cars are going to
21 be put back into service, you may make that decision
22 now, I think.

23 Obviously, in this price per barrel where
24 we're at today, we're not moving a lot of crude by
25 rail, I think the numbers that AAR has proved that out,

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1 but, you know, those are significant investments and we
2 see the price probably staying close to 50 for some
3 time into 2017, so if you know you're not producing, I
4 mean, the amount of wells, I think we went from 800-
5 something producing wells in the U.S. to 330, so I
6 mean, you're seeing significant -- granted, we're more
7 efficient in our ability to produce, but again, if
8 you're projecting out and you're not seeing those cars
9 back in service, you're probably not going to invest in
10 that.

11 But I mean, I would defer to Denford since
12 he actually owns those cars.

13 MR. JAJA: I agree with what Suzanne has
14 said, but in addition to that, and I think we made
15 mention of it earlier on, there are alternate modes of
16 transportation, such as pipeline, that are coming into
17 play as well, so as a car owner, you are looking at the
18 things that Suzanne has talked about, and you are
19 looking at pipelines coming online, and possibly moving
20 those barrels that are currently moved by rail into
21 pipeline, so you're weighing all these options and
22 trying to make the best decision.

23 MEMBER SUMWALT: Thanks. Any others? Yes,
24 please.

25 MR. HULICK: You know, when we talk about

1 market and demand, I think that's certainly a critical
2 part of, you know, what's going to prompt people to
3 modify cars, but I think we also have to focus on, just
4 taking crude oil as an example, there are two distinct
5 markets in crude oil, there's the shale market and then
6 there's the heavy crude market. I'll use those as
7 general terms.

8 And there are many idle cars that came out
9 of shale service that would not be feasible to use in
10 heavy crude oil service, the reason being, the cars are
11 larger because of the lighter density of the shale
12 product, and you can't stay within the clearance
13 requirements necessary to put the insulation, and the
14 coils, and the jacket on those cars that would be
15 necessary for the heavy crude oil market.

16 So within the modification candidates, that
17 has to be taken into consideration. And as several of
18 our colleagues have said today, in the shale market,
19 we're seeing increased pipeline availability, so we're
20 seeing decreased crude by rail, and if you look at some
21 of the forecasts, it doesn't appear that the crude by
22 rail in the shale market place is going to return even
23 to 2015 levels anytime soon.

24 Maybe 2021, as some of the dates that I've
25 seen, some others probably closer than I am, if you

1 look at possible growth in the crude market, it's
2 probably the heavy crude, but again, not all the cars
3 could be modified for that service, so I think we have
4 to look at the fact that, even that growth, you know,
5 we've got a tremendously overbuilt supply of tank cars
6 right now, so it's going to be a selective decision as
7 to the characteristics of the car, the cost, the
8 demand, and the shipper's needs.

9 MEMBER SUMWALT: Good point. Now, for my
10 edification, when you talk about the clearance
11 requirements of the car, you're talking about the
12 physical exterior dimension of the car by adding the
13 jacket or are you talking about the increased outage
14 that has to be there?

15 MR. HULICK: I'm talking about the physical
16 clearances to stay within the prescribed plate
17 clearances which are required. Those cars are on the
18 edge of the plate clearance, which is appropriate, so
19 you can get the best volume that you can. To then take
20 that car and add, not just a ceramic fiber blanket and
21 a jacket, but another layer to accommodate the coils
22 that are welded to the tank and then the insulation,
23 that puts the car outside the plate clearance.

24 And to your point, that car is too large
25 anyhow to be efficient in that market based on the

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1 density of the product.

2 MR. KLOSTER: It's more of a width issue,
3 actually, because the shells of a non-cold car almost
4 go to the edge of the envelope, and then when you add,
5 you know, a couple inches on each side, you're outside
6 of that.

7 MEMBER SUMWALT: Okay.

8 MR. KLOSTER: And so the only way to do that
9 would be to, you know, taper it down, which isn't going
10 to work, because then you're going to have a zone that
11 doesn't have insulation, and that's going to be a
12 heatsink, or you're going to have to just squeeze the
13 car, which is impossible.

14 MEMBER SUMWALT: Okay. Good.

15 MR. WILLAUER: That's also known as plate C?
16 Was that the term that was used?

17 MR. KLOSTER: Yes, there's Plate B, C, E, F,
18 and even greater, from a height standpoint, but all of
19 the plates' clearances are the same from an extreme
20 width standpoint. It's like 10 feet 8 inches, or
21 something like that.

22 MR. HULICK: And that particular Plate C
23 width, we had a good discussion among the industry to
24 see if there was any relief in that plate clearance,
25 and there are a number of areas in North America where

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1 there is no relief available, so we can't go beyond
2 that, so we are restricted by that dimension.

3 One other comment on decisions, there's
4 always the feasibility of scrapping an asset, and we've
5 had conversations about age of assets and cost of
6 modification, and, you know, scrap prices will dictate
7 whether or not assets are going to be retired and cut
8 up. And if the scrap market is not attractive, you're
9 probably going to see those cars sit for a while before
10 they're disposed of.

11 So when we get into fleet counts, there may
12 be cars that are not going to return to service, but
13 they're still in the count until it's more attractive.

14 MEMBER SUMWALT: Interesting. So Mike has
15 passed through the audience to see if there's any
16 questions from the audience and any other ones before
17 we start going through those, so great, we'll catch
18 those in just a minute. Yes, we'll jump in here.
19 Let's see here. This one from the audience. Anything
20 from the Internet? Nothing from the Web. Okay.

21 All right. Let's see, if the viability of
22 retrofitting legacy 111s has gone away, as John Brian
23 has stated, is it Byrne or Brian? It's Byrne. I
24 thought so. I heard somebody pronounce it --

25 MR. BYRNE: And that wasn't an absolute

1 remark. That was directional.

2 MEMBER SUMWALT: Okay. Good. Thanks. So
3 really, very little retrofitting is being done during
4 the past five years until the CPC-1232s can be
5 addressed. What do regulators expect fleet owners
6 should be doing in the meantime? So, Karl, let's see
7 here, I'll just let you read that one right there and
8 read the question, if you will.

9 MR. ALEXY: Well, you know, we have the
10 deadlines out there, so we would expect them, industry,
11 to understand that those deadlines aren't going to be
12 extended, that they have to -- that these are decisions
13 they're going to have to make. If they want to hold
14 off and wait, and the market changes, and there's a
15 sudden demand increase, that they're going to have to
16 be prepared to take care of that.

17 You know, whatever decisions they need to
18 make from a business standpoint, this being the tank
19 car owners and the shops as far as getting equipment
20 and material setup, you know, that's, again, business
21 decision from them. But ultimately, the message is,
22 you know, the deadlines are set and we expect them, you
23 know, beyond those deadlines, those respective cars are
24 not put in service.

25 MR. BENEDICT: And kind of to reiterate

1 something Ben said earlier, with the, kind of,
2 flexibility that we're seeing now because the demand
3 has decreased, these deadlines are just deadlines. You
4 know, we would encourage the use of the newer cars
5 quicker, if possible, now, understanding there's
6 leasing and other issues at play here, but, you know,
7 the FAST Act has tied the dates to a specific time, but
8 that doesn't mean that we can't encourage the use of
9 the new cars faster.

10 MEMBER SUMWALT: Here is a question from the
11 Internet. We're getting great questions from the
12 audience. If the shippers used more condensate with
13 heavy crude, couldn't they use tank cars without coils?

14 MR. KLOSTER: Heavy crude has to be
15 unloaded, and it cools down, and it's like sludge, so
16 how do you get it out? You have to heat it up. So I
17 just -- you have to have coils. I mean, am I wrong?
18 Builders?

19 MR. HULICK: It's a density, you know,
20 question and the heavy crude, even mixed with
21 condensate, most likely in colder climates will
22 required steaming of the car to get it out, actually,
23 probably in just about any climate. That's just a
24 fact.

25 DR. NEELS: I believe it's the case that

1 they use diluents of various sorts to move it by
2 pipeline, so I'm not sure that it's technically
3 infeasible, but one of the problems is then, you're
4 transporting the crude and the diluent to the
5 destination, and the diluent has to go back because
6 it'll be reused. So the logistics of it are
7 complicated, assuming it's technically possible.

8 MR. KLOSTER: That's true. And when you're
9 moving crude in a pipe, it's 30 percent diluent, and so
10 in rail, it started out with the same, they had what
11 they called, you know, dilbit, and then they had
12 railbit, which is, I think 15, 20 percent, and there's
13 even some talk about getting to a point where it's no
14 bit, you know, which would be a big, you know, economic
15 advantage if you could ship 100 percent crude uncut in
16 a tank car relative to what your pipeline competition
17 has to do, which is, you know, cut it, you know, 30
18 percent.

19 But I don't think that no bit technology, if
20 you'd call it that, is really widely used yet.

21 DR. NEELS: Yes, and in fact, I think one of
22 the reasons why rail has looked better from the point
23 of view of oil sands producers is that they don't have
24 to worry about the diluent, and that's been part of the
25 reason why the shippers will pay the somewhat higher

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1 cost of moving it by rail rather than by pipeline.

2 MEMBER SUMWALT: Thanks. So what we'll do,
3 we'll go to the panel here. We've got a couple of
4 questions, so kill your mics if you don't mind. Thank
5 you. Rachael, go right ahead.

6 MS. GUNARATNAM: Thanks. I just had a
7 question, Karl touched upon it, if the demand picks up,
8 you know, the deadlines are the deadlines, Suzanne, you
9 mentioned that they're not retrofitting right now
10 because there isn't demand, but if the demand does pick
11 up, how is the industry going to then be able to
12 compensate and meet the deadline at the same time? Is
13 there kind of a plan?

14 MS. LEMIEUX: I mean, from an anti-trust
15 perspective, we don't collect any of that information
16 from our members and we wouldn't legally be allowed to
17 ask them what their plans are. So again, those are all
18 going to be market-based decisions. I think our
19 comments to the rule were pretty extensive in terms of
20 the schedule and what we thought was appropriate in the
21 schedule, so I think knowing now what the schedule is
22 and, you know, companies will work with the
23 manufacturers if they're buying tank cars or work with
24 the leasing companies to order their cars, but I don't
25 -- you know, in compliance with the deadlines.

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1 And I think that's all, from an API
2 perspective, we can really say about that. Again, it's
3 an individual company decision and those are all
4 restricted by anti-trust.

5 MR. HULICK: And further to that, I mean,
6 there are private tank car owners who have modified
7 tank cars and are considering more modification, so
8 it's not that there's nothing being done. And, you
9 know, we as a company have modified cars in our own
10 lease fleet as well as cars for other owners, so it's
11 not that there's no activity at all.

12 MS. LEMIEUX: Yes, I didn't mean to say that
13 companies weren't. I said it was a company decision
14 based on the market.

15 MR. BENEDICT: Yes, and I would just say
16 that, you know, when we were doing our analysis for the
17 rulemaking, we did take comments and adjusted the
18 schedule to reflect the comments, but ultimately, we
19 were looking at a mixture of new cars and retrofitted
20 cars to meet the demand, and what we've seen is
21 actually more production in new cars than we thought.

22 So, yes, if that changes because the demand
23 changes, we'll see, but, you know, as Bob said earlier,
24 we're kind of on a good pace to meet that first
25 deadline.

1 MEMBER SUMWALT: John, I believe you wanted
2 to have a question.

3 MR. VORDERBRUEGGEN: Mine is more of an
4 observation than a question. It appears that the oil
5 producers have a heck of a challenge in front of them.
6 They're dealing with prices just going all over the
7 place and hopefully it's stabilizing, so that's one big
8 impact for the producers. And, Gabe, you probably --
9 this probably -- you probably lose sleep over this, the
10 price of oil is so -- in such a state of flux.

11 And the other things is, for transporting
12 your product, the rail industry is declining as the
13 pipeline availability comes onboard, whereas, in the
14 ethanol arena, things are relatively stable price-wise,
15 maybe relatively flat production-wise, but you don't
16 have the challenge of how do I adapt for pipeline
17 displacing rail.

18 So I know if I had to be on one of those two
19 sides, I think I know which side I'd be on to try to do
20 these analyses.

21 MEMBER SUMWALT: Great. I know we're not
22 scheduled for a break, but I don't think anybody's
23 going to argue with us taking ten minutes, given that
24 it's after lunch, so by that clock, let's be back at
25 2:15 and we'll start with Panel 5. Thank you.

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1 (Whereupon, the above-entitled matter went
2 off the record at 2:04 p.m. and resumed at 2:16 p.m.)

3 MEMBER SUMWALT: Bob, I don't want to open
4 up a can of worms, during the break I was thinking
5 about this, really, I think at the NTSB, we would be
6 very interested in knowing, percentage-wise, how things
7 are coming in the upgrade, and we even had a
8 recommendation to PHMSA, I think, and I think that Paul
9 will address that in a little while, you know, from
10 milestones so that we could say like, well, 20 percent
11 of the fleet is done each year, or something like that.

12 And when I say -- it depends on how you cut
13 the figures, whether you're looking at the tank cars
14 that are produced, but not in service, and things like
15 that, and I don't mean this in the nefarious sense, but
16 depending on how you cut the figures it's like a shell
17 game almost, that well, this number is out there, but
18 only this number being in use, and I don't mean that in
19 an unkind manner, but would you be willing to just meet
20 with our staff sometime and just try to help us
21 understand what those percentages are?

22 MR. FRONCZAK: Yes, absolutely. I mean, we
23 work very closely with the RSI making sure we got these
24 numbers right, and there is a lot of data that is in
25 the slides that I provided you all with. And you may

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1 or may not understand the nuances to it all, so yes,
2 we're willing to talk through that.

3 MEMBER SUMWALT: Well, thanks. And to your
4 credit, you prepared these great slides, and you were
5 prepared to show them, and I said, no, we really don't
6 want those, so maybe the onus is on us to digest them,
7 and then if we have questions, just go to you, but the
8 conversation we had at the beginning of the last
9 session, I kind of left thinking, well, I'm not even
10 sure where we stand with the total upgrade, so I was
11 just -- but it is in the data that you've provided, I
12 guess.

13 Okay. Good. Thank you. So what we're
14 going to do now is go to the last panel, and I'll ask
15 Diedre to show the Web address one more time. If you
16 want to email in questions, here it is here,
17 railtankcarsafety@ntsb.gov. Thank you. If you're in
18 the Internet land, not playing Pokemon, you can email
19 questions, whatever Pokemon is.

20 Panel 5, the path forward to implement the
21 new tank car safety standards. And so, Manuel, would
22 you be willing to tell us about the status of
23 recommendations from the TSB concerning Lac-Megantic
24 and other recent accidents?

25 MR. KOTCHOUNIAN: Sure. Thank you, Member

1 Sumwalt. For us, as you know, following the tragic
2 events of Lac-Megantic three years ago, we issued a
3 series of recommendations to improve the transportation
4 of flammable liquids by rail, including a
5 recommendation to improve the robustness of the DOT-111
6 tank cars.

7 TSB has accepted all of the recommendations
8 and has taken a number of safety measures. For tank
9 car safety, TC published a rule in May 2015 that
10 established the new TC-117 standard. That will effect
11 provisions for older tank cars and implantation
12 timelines to modernize the fleet. These are generally
13 harmonized with the PHMSA standard and require a number
14 of enhancements to the tank cars used for flammable
15 liquids.

16 TC also committed to fully enforce the
17 phase-out timelines if required. The TSB has evaluated
18 the response and gave it a satisfactory intent quote
19 and the recommendation remains open while we monitor
20 the progress. I would also like to point out that the
21 transport of flammable liquids by rail is on our watch
22 list and which is something that we continuously
23 monitor, and we remain of the view that the sooner the
24 older tank cars are phased out, the better it is for
25 safety.

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1 With respect to the latest accidents that
2 are currently still under investigation, what I could
3 say is that, like I mentioned earlier in the opening
4 slides, in the two Gogama accidents, there were 68 CPC-
5 1232 cars that derailed, 6 of them were jacketed and
6 insulated. There were -- I'm giving general numbers
7 here, there was about 22 cars that sustained a thermal
8 tear in those two accidents.

9 While none of the jacketed CPC-1232 cars did
10 sustain a thermal tear in these accidents, there is not
11 enough data to be able to draw any conclusion on their
12 fire survivability. Some of these cars had other
13 breaches and some of them that were not breached did
14 not necessarily sustain a fire that would have caused a
15 thermal tear.

16 So in summary, Member Sumwalt, that's what I
17 can say.

18 MEMBER SUMWALT: I really appreciate that.
19 Thank you for that summary. And so now, Paul, I know
20 that before the lunch break, I mentioned that I thought
21 I was impressed with the rulemaking effort in terms of
22 the length of time that it took to get it done, but,
23 Paul, what have we called for that we would like to see
24 more work on?

25 MR. STANCIL: Yes, so there is one

1 recommendation in particular which sort of comes right
2 to the point of this roundtable discussion, and that
3 recommendation came out of the Mount Carbon, West
4 Virginia investigation from the February 2015 accident
5 in Mount Carbon, West Virginia. We issued
6 Recommendation R-15-16, which urged PHMSA to require an
7 aggressive intermediate progress milestone schedule,
8 and we gave an example, such as 20 percent yearly
9 completion metric over a five-year implementation
10 period. Some people took that literally, but that was
11 just a suggestion.

12 For the replacement or retrofitting of
13 legacy 111s, DOT-111s, and CPC-1232 tank cars to an
14 appropriate tank car performance standard, that
15 includes equipping those cars with jackets, thermal
16 protection, and appropriately sized pressure relief
17 devices.

18 And although we would have preferred a more
19 aggressive schedule than the 10 years, or 13 years, for
20 full implementation that's provided in HM-251 and the
21 FAST Act, we understand that the deadlines were based
22 on analysis of shop capacity, and logistics, and are
23 closely aligned with those of Transport Canada.

24 So we continue to stress the need for a more
25 timely and documented replacement of these less-safe

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1 tank cars, and in the absence of mandated
2 implementation milestones, which is, we believe, key,
3 the scheduling decisions for upgrading the DOT-111 and
4 CPC-1232 tank cars to safer designs is left entirely to
5 the fleet owners and may be driven by market factor
6 influences and not safety improvements, and that was
7 our major concern.

8 So the intent of that recommendation is to
9 accomplish the replacement of the existing less-safe
10 tank car fleet as quickly as possible. And we noted
11 that, to date, and this is based on some March 2016
12 figures we were given, that the industry progress
13 appeared to be fairly slow. We only had something over
14 200 tank cars that had been retrofitted and very few
15 117s that had been manufactured to date, but today we
16 have some different figures and we'll have to digest
17 that.

18 But in accordance with all of this, we have
19 classified that recommendation, in our letter that was
20 sent to PHMSA yesterday, as open with unacceptable
21 response until PHMSA establishes a clear set of
22 intermediate metrics that it can use to evaluate the
23 safety improvements.

24 MEMBER SUMWALT: Thank you for that summary.
25 And again, I realize that a lot of people have been

1 working very hard for a long period of time to improve
2 the safety of flammable liquids by rail, and that's
3 very much appreciated. And our job is to continue to
4 push to raise the bar and many of you have been
5 responsible for, in fact, raising that bar, so thank
6 you.

7 So what we've decided to do, I've decided to
8 make an executive decision that we're going to combine
9 this last panel into the free-for-all discussion that
10 we're going to have and just, you know, be out of here
11 by -- within an hour instead of -- you know, I mean,
12 these topics are so closely held. So why don't we go
13 around the room, and we'll start Willy. Willy, we
14 haven't heard from you, and I haven't called on you,
15 but you're always here for everything we do related to
16 rail. It's good to see you again.

17 And, sir, the question is, what is the one
18 thing you want to see done to make a difference in the
19 safe shipment of flammable liquids by rail? So we'll
20 just go around and if you say, well, Willy's already
21 said that, so I'm not going to say it, that's fine, but
22 we'd just like to hear from everyone just to kind of
23 get it on -- to hear your thoughts.

24 MR. BATES: First of all, I thank you,
25 Member Sumwalt, for the invitation and for us to

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1 participate on the panel. Of course, my first thing
2 that -- I'm labor. I'm the one that picks that car up
3 and deliver it. And it would be a -- I would have a
4 peace of mind knowing that I got the best equipment
5 there, not legacy or some other tank car I'm pulling
6 behind me, because actually, I'm the first responder.

7 It's just like a statement made earlier said
8 that 117 would improve safety. My goal is I hope that
9 every car I pull is a 117 or have been retrofitted.
10 And we need your help. We need everybody's help. We
11 need the regulatory part, the railroads, the petroleum
12 industry, the manufacturers, let's get on the ball,
13 because the next derailment or next accident, we don't
14 want to talk about this again.

15 And we have 117 cars on the side, they
16 should be here working. They should be hauling the
17 materials. We don't want to have this conversation
18 again. I know it's about money, but how can you put
19 money on lives and communities that these trains come
20 through?

21 And that's the labor point of view because
22 it's my members, men and women out there, that delivers
23 that product. We want to have the peace of mind that
24 we have the best equipment behind us. If something
25 happened, I know everybody got my back because they

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1 took the initiative to put the best equipment out
2 there.

3 And hopefully, if that derailment or cars
4 turn over, that it would stay contained. We don't have
5 to go down in explosions and materials going in the
6 rivers, contaminating rivers and stuff, you know, and
7 that's where I'm saying, everybody have to be involved
8 in this, because this is where the rubber meet the
9 road.

10 My members are here that had the confidence
11 that everybody in here is working hard to make sure
12 that we have done everything that we should have done
13 to make sure it's a safe way to transport these
14 materials. If we have anything left in safety in mind,
15 we're in the wrong business because, you know, we can't
16 keep thinking like we always thought about, the bottom
17 dollars, we got to think with safety first.

18 If you're thinking with safety first, then
19 money going to come, because you have the safest
20 operation that you can possibly have. And I don't like
21 to see -- I don't want to hear about the legacy 111s.
22 They should have been history. I don't want to hear
23 about what we going to do when my members hauling up
24 and down the road retrofit 117-type cars so that
25 something happened, at least we have a fighting chance,

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1 or if we're not first responders, at least we have a
2 chance to go back and do what we can to help mitigate
3 or rectify the situation. Thank you.

4 MEMBER SUMWALT: Willy, thank you for those
5 poignant remarks. Kevin?

6 DR. NEELS: Well, I think it's important to,
7 kind of, step back and look at the story we've been
8 hearing here today. I made a comment to some people
9 over the break that I think from a safety and risk
10 reduction standpoint, parking cars is as good as, or if
11 not better than, modifying them. Paul was saying a
12 relatively small number of cars have been modified, but
13 a large number of cars have been taken out of service.

14 We've heard about, you know, the market has
15 shifted, pipelines are carrying more of this, I think
16 the amount of risky traffic that's the subject of this
17 rulemaking has really gone down a lot. And so I think
18 a lot of the risk has gone away for that reason.

19 And from what I'd like to see, I think, you
20 know, we've heard a little bit, we've been trying to
21 make sense of the numbers we've seen here about, you
22 know, what's in the fleet and how are these new cars
23 coming in? I'd like to see more information like that
24 so we can all monitor this as we go forward and see
25 just, you know, whether this risk is going down, what

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1 else we need to do to kind of keep it going down, but I
2 think we should -- you know, we shouldn't be too
3 worried about the fact that we haven't had a lot of
4 cars coming out of the shops modified because a lot of
5 the riskiest cars are going out of service.

6 And I think the overall problem has gone
7 down and we just need to make sure that we continue to
8 monitor it as it goes down and know what we're doing,
9 and know what the remaining problem is that we need to
10 address.

11 MEMBER SUMWALT: Kevin, thank you. And I
12 think I want to make sure, you said there's a big risk
13 of having cars brought out of service?

14 DR. NEELS: No, I didn't say that. I think
15 that we've had a lot of cars taken out of service and,
16 yes, things could turn around, some of them might be
17 put back in, but I think, you know, that's a
18 possibility. It doesn't seem a likelihood that we're
19 going to see a major shift of that nature, but the
20 retirement of the riskiest cars is a good thing, we're
21 seeing more of the newer, safer cars going into
22 service, and I think we should have the ability to
23 monitor that as we go forward so we can keep an eye on
24 how all this is going.

25 I think in due course, you know, we'll see a

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1 much safer fleet hauling what should be a reduced
2 volume of traffic that we're worried about. We want to
3 be able to make sure we can see that as it goes on. I
4 mean, as Bob has said, it's tricky to measure this
5 stuff with the available information and we've all
6 struggled to get our mind around it.

7 I know, from my own experiences, how tricky
8 some of this stuff could be. That's what I'd like to
9 see, is more information to monitor it going forward,
10 but I think, let's keep in mind the fact that the
11 overall problem now is a lot smaller than it was when
12 the rulemaking started, and the risk is correspondingly
13 reduced.

14 MEMBER SUMWALT: Yes, we really do have a
15 different landscape now than we did in May of last
16 year, May the 8th, when that rule was published, and
17 especially during the comment period from October the
18 1st of '14 to May the 8th. I mean, it's a different
19 landscape because of the crude market has changed, so
20 thank you. Dick?

21 MR. KLOSTER: So you asked my opinion, so
22 here it is. So the last three years have been a very
23 pitiful three years for, you know, this segment, and it
24 actually, you got to go back to 2009 with Cherry
25 Valley, when the efforts really started off, so it's

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1 been, what, seven years, and we finally, finally, I'm
2 talking about the whole industry, not just the
3 operating companies, the rail equipment, or the rail,
4 or the supply chain, but also the shippers and the
5 regulatory side, so that whole industry, we finally
6 have a rulemaking, you know, last -- a little over a
7 year ago.

8 But there are still some outstanding issues.
9 Some, you know, we can have some control on others, you
10 know, like the ECP brakes, we don't. So what I would
11 really like to see is, I would really like to see a
12 settling of that. I would like to see those things
13 resolved so that the industry, the broader industry,
14 can move forward.

15 You know, we've got different -- this fleet
16 serves different segments of the market. Ethanol, as
17 an example, is a little bit less problematic. Crude is
18 very problematic, not the least of which is, you know,
19 how big does the fleet need to be and, you know, what's
20 going to happen to oil prices, and crude by rail
21 relative to pipeline, and I could go on and on, but the
22 point is, is that, you know, the uncertainty with the
23 rules, the last remaining items, but also there's a
24 little undercurrent of uncertainty as to, okay, what's
25 next?

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1 Needs to be settled so that people can start
2 planning for the future, so we can start making those
3 hard decisions, because this is not all about safety.
4 It started all about safety, but the pragmatic reality
5 is there are supply chain and economic, and I don't
6 mean just economics for our industry, I mean economic
7 beyond, you know, the general economy.

8 There are economic issues that come into
9 play and I tell people, you know, they ask me about,
10 you know, railcars and whatnot, and I say, well, you
11 know, it's a lot easier to take a picture of a flaming,
12 you know, fireball out of a tank car than it is take a
13 picture of a guy not setting a handbrake or a piece of
14 broken rail to put on the front page of the New York
15 Times.

16 So I think the rail equipment sector has
17 really been affected from a packaging perspective to
18 the point where I think we've gone about as far as we
19 can go. We can make the tank cars tougher. We can put
20 1, 1-1/2, 2-inch thick shells on them, but at the end
21 of the day you're only going to be able to ship 5000
22 gallons of crude or ethanol and where are the economics
23 in that?

24 So there's got to be, you know, an
25 understand, a balance, between safety and the economic

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1 viability of moving these products by rail. If we
2 decide to -- I mean, if the objective is to, you know,
3 regulate the movement of these products by a different
4 mode, then fine, then just, I think the best thing to
5 do would be to let the industry know that so they can
6 go and move on to other things.

7 So with that said, that's kind of my thought
8 is, we need to settle it, settle it as soon as we can
9 so we can move forward.

10 MEMBER SUMWALT: So to make sure I've got
11 this right, you would be in favor of 2-inch shells.

12 MR. KLOSTER: In a sense that if you did
13 want that, then I would just go spend my time doing
14 something else.

15 MEMBER SUMWALT: I got you. Thank you very
16 much. And, John, thank you for -- this has been a
17 great discussion. So, John, you're next.

18 MR. BYRNE: Yes, I certainly echo Dick's
19 remarks with respect to uncertainty. You know, the
20 Railway Supply Institute has been working, you know,
21 with the AAR, you know, since 2011 to, basically,
22 address safety on a voluntary basis without a standard.
23 And now, we're faced with having to do a lot of rework
24 because the voluntary efforts that we made, you know,
25 basically, didn't meet the final acceptance standard

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1 for flammable liquids cars.

2 You know, so dealing with uncertainty is
3 extremely important. We're still reeling from
4 uncertainty, okay? I think that the industry, on a
5 voluntary basis, has done a very good job in terms of
6 improving packaging overall. When you look at the
7 fleet percentages and the types of cars, yes, we still
8 have a long way to go, and understand completely that,
9 you know, due to a change in product mix that, you
10 know, our areas of risk are different than they were
11 when the rule was created, and we're struggling to
12 basically align better packaging with where we believe
13 risk resides today, okay?

14 In our role, the builders, the owners, you
15 know, we don't have absolute control, we can't compel
16 our customers, the shippers, to use better packages.
17 You know, they have to deal with, you know, economic
18 reality, they have to deal with, you know, some
19 regulatory uncertainty, and they're dealing with some
20 long timelines right now, and there's really not a lot
21 that, basically, provides some incentive to doing this
22 before the deadlines.

23 Now, the RSI companies will have to deal
24 with this eventually. I think most of the RSI
25 companies would prefer that we have, kind of, a ramp-up

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1 to the finish line as opposed to waiting until the last
2 minute and then having a crisis, so understand it
3 completely, and I don't have a solution to offer, but
4 there needs to be some incentive for the shippers to
5 respond early.

6 You know, the RSI members companies create
7 the capacity, we don't, at the end of the day, decide
8 what cars they use.

9 MEMBER SUMWALT: Great. And when we come
10 out of this particular question, if you will, I really
11 do want to probe about those incentives for an early
12 implementation. As I mentioned before, the tax credits
13 or some other ways, either the carrot or the stick, so
14 I'm looking forward to that discussion. Bob?

15 MR. HULICK: Thank you, Member Sumwalt. You
16 know, there's been some conversation here about clarity
17 and harmonization, and I think I'd like to congratulate
18 the group because I think we've really come a long way
19 in getting clarify and harmonization, and I think I
20 harken back to a couple points in time. One was, John
21 referenced the CPC-1232, which was a voluntary
22 standard, and I think we reached the conclusion working
23 together, and I think the industry responded very well.

24 There was more than \$7 billion invested in
25 those cars, which was, from a reliability standpoint, a

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1 step forward. We now have the challenges that DOT-117,
2 TC-117, bring us, but I guess I'm pleased to see, once
3 again, that we are responding, you know, we are
4 building new DOT-117 tank cars. We are modifying tank
5 cars.

6 It is driven, to a large part, by demand in
7 the marketplace, as we discussed today, and it is a
8 cooperative decision process, as we've discussed today.
9 Safety is Job 1, certainly from my company and I think
10 for everybody else involved here, so that's never in
11 doubt, and that's what we work for every day, and we'll
12 continue to focus our efforts.

13 When we talk about, you know, what might be
14 different, I might go back to Rachael's question about
15 cars that are currently stored and if they would come
16 back to service or not. There may be some
17 opportunities where there are stored CPC-1232 jacketed
18 tank cars that only require a bottom outlet valve
19 handle to be a DOT-117R.

20 Right now, if you look at the cost of moving
21 one of those cars to a shop to do that modification and
22 then return it to service, there's significant costs
23 and a lot of coordination that's involved to get that
24 done. Maybe something we can take away is working
25 together to make that very efficient because that's the

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1 modification that certainly could be done to an idle,
2 it's not a significant investment, and those would be
3 the cars that could then return to service as the
4 market picks up, first, and that gives us a little bit
5 of a runway to look at is to where that demand's going
6 and what other cars might need modified or may not be
7 modified, and respond in an appropriate fashion.

8 So that's the takeaway that I have today. I
9 certainly appreciated the privilege of being here and
10 part of the conversation, so I thank you for that.

11 MEMBER SUMWALT: Thank you, Bob. And
12 certainly, you've offered great insight, so I'm really
13 glad you've been here, so thank you. Greg, I know
14 you're going to have to leave in a few minutes, and so
15 I sure do want to hear your thoughts before you leave.

16 MR. SAXTON: Thank you. First, thank you
17 for assembling us, and then, really, what I -- my
18 takeaway from this is, we've done an awful lot of good
19 work so far, there's a couple of things we still need
20 to figure out. The FAST Act didn't spell everything
21 out perfectly. I'd hate to see us start bickering
22 amongst each other and not get to the finish line.

23 I think we can get there. I think we should
24 take great satisfaction in how far we have gotten.
25 It's a tribute to all of you, to all of us, to our

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1 industry. This is an important industry, the rail
2 industry, to this country, and I do believe it's one of
3 the things that makes America great, and we need to not
4 lose sight of that, so let's keep working together.
5 That's my message.

6 MEMBER SUMWALT: Well, the nation's economy
7 is built on the backbone of the rail system, so you're
8 exactly right. I'm trying not to ask follow-up
9 questions as you're going around because that would
10 delay things, but since you are going to leave, you
11 mentioned, you know, that there are some things that
12 were not addressed in the FAST Act, so if you could
13 name one or two of those before you --

14 MR. SAXTON: Well, we talked a little bit
15 about the thermal insulation on the retrofit, that
16 would be one, and really, I think as an outsider looks
17 at this question, they're thinking to themselves, oh,
18 boy, these guys want to cut a corner. Actually, RSI's
19 position on that, in my opinion, and certainly, my
20 position within RSI is, let's get this settled out.

21 This is something that was kind of left
22 vague and some people might be tempted to do it one way
23 and some people might be tempted to do it the other.
24 Let's just figure out what's going to be -- what really
25 meets the intent, let's agree to it, and get on with

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1 it. I'm not going to feel terribly bad either way. In
2 fact, a decision that goes either way on that issue,
3 I'm good with it. Let's make it, let's get on with it,
4 because I think that's how we get things done.

5 MEMBER SUMWALT: Great. Thank you. Thank
6 you so much. Safe travels.

7 MR. SAXTON: Thank you, sir.

8 MEMBER SUMWALT: David.

9 MR. WILLAUER: Thank you, Robert. My role
10 in this has largely been through the crude oil
11 subcommittee work that I've been doing with the TRB,
12 and I think that communicating rail safety across the
13 country using facts to counter the hype that's been
14 created by this is really important. Communicating is
15 so important in getting the message out to the public.

16 And if one thing I can say about this shale,
17 oil, and gas revolution, if you will, is that it's
18 really raised people's awareness about hazmat
19 transportation in the U.S., not just about crude oil,
20 but other products, other hazardous materials, and
21 since we can't stop interstate commerce in this
22 country, it's surprising how many political
23 representatives in states and counties along the way
24 have tried to do just that. And they say, well, we're
25 just going to have to stop these trains or we're just

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1 going to have to not transport this through our cities
2 and towns, as if the railroads have something to do
3 with it or even have a choice.

4 And so that kind of communication, I think,
5 can't be overemphasized. And we're also shipping a lot
6 of commodities through urban areas, so urban areas are
7 getting a big focus right now on raising awareness
8 about some of the derailments that have occurred, even
9 recently, here in D.C.

10 I understand you didn't choose to
11 investigate that derailment on May 1 because only one
12 tank car breached and it wasn't a -- it didn't rise to
13 the level, but maybe part of that could have been
14 communicated more because it almost came and went in
15 one news cycle.

16 The other thing that I would just like to
17 mention is that we also spend a fair amount of time
18 trying to provide both communication to and training
19 for first responders to provide public protective
20 actions in the event that they need to respond to an
21 incident in their backyard. Then just as the energy
22 market is expanding and changing, that's also changing
23 the requirements and the need for different types of
24 response techniques.

25 Firefighting for ethanol wasn't even

1 considered as much as it was recently. Ten years ago,
2 I know we were looking at some maritime uses of
3 alcohol-resistant foam, but suddenly, firefighters are
4 saying, well, we need more of this, and so there's a
5 good example of a change in the industry that resulted
6 in a change in first responders as well.

7 So I think that kind of communication about
8 rail safety to the public is so important and this is a
9 great venue to do that. One of my suggestions I've
10 written down for future roundtables is not to stop at
11 rail, but since you're a multi-modal organization, you
12 could, perhaps, look at maritime, pipeline, motor
13 carrier safety in the same spirit, since rail is only 5
14 percent, I think, of crude oil transportation. It's a
15 very small piece of the puzzle, so those are some
16 remarks. Thank you.

17 MEMBER SUMWALT: I really appreciate those
18 remarks and I'll have to admit, we're not through for
19 the day, but there's been tremendous collaboration in
20 this very open discussion, very informative, and coming
21 from groups who have competing interests and don't
22 always see things the same way, but it's been a
23 remarkable dialog so far and I really appreciate
24 everybody's being able to listen and exchange
25 viewpoints, so thank you. And, Andreas.

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1 MR. AEPPLI: Yes, thank you, Member Sumwalt.
2 I've also really enjoyed this session here today. I
3 think I kind of want to second here what Kevin said a
4 while ago, which is, there's a need to make sure that
5 we're working with the right information, and I think
6 today was really kind of eye-opening, seeing what's
7 already happened in terms of the adaptation of the
8 fleet to adhering to the safer DOT-117 standard.

9 And I think as we go forward, I think it's
10 really important to have that information available
11 because it's freely out there, because I think when you
12 want to hold people's feet to the fire to make sure
13 that this conversion happens, you know, having the
14 information available for everybody to see, I think, is
15 a very effective tool, particularly as we get closer to
16 the deadlines of 2023 or 2022.

17 I mean, short of not transporting this kind
18 of hazmat, you know, the way you make the system safer
19 is to ensure that everybody, you know, is aware of
20 what's going on and adheres to the regulations and
21 requirements that are being called for. Thank you.

22 MEMBER SUMWALT: Thank you very much. Greg,
23 you're on deck.

24 MR. JOHNSON: Well, thank you. Just a
25 couple of, I guess, closing thoughts from my

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1 perspective and the leasing company perspective,
2 certainly, we've put a lot of focus on the tank car
3 package. I think it's important that we also keep the
4 same focus and pressure on keeping the cars on the
5 tracks in the first place. And I know a lot of work
6 has been done around, you know, those issues as well,
7 but for a tank car owner, one of the most frustrating
8 things is, we don't really control the operation of the
9 train, but we have to, you know, deal with some of the
10 aftermath in terms of regulation for the assets.

11 Somebody else mentioned, you know,
12 uncertainty, and certainly as a company that invests,
13 you know, in long-term assets, uncertainty is bad for
14 us. We thought we had kind of made some strides with
15 the CPC-1232 cars, made a big investment, the entire
16 industry made a huge investment, in 1232 cars, to find
17 out that that wasn't going to be the end game, and five
18 years after the investment, you know, we're faced with
19 some pretty significant costs to retrofit, modify,
20 retire, repurpose, do something with those assets.

21 And for a leasing company in particular, and
22 industry owners that bought cars, you know, that's an
23 unsettling issue. So as we said earlier, a couple of
24 open issues, I think, in terms of the tank car
25 specifications, ECP and this jacketed 1232 car, and

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1 whether it really has a huge safety improvement to add
2 a ceramic blanket, given the cost to do that, are
3 important things to clarify. The sooner the better so
4 that we can move forward with, you know, whatever
5 decisions we have to make.

6 And then lastly, you mentioned, you know,
7 incentivizing people to retire, upgrade, do something
8 for their fleets, and I think that's an interesting
9 idea. I'm sure that most tank car owners would welcome
10 some type of investment credit if they retire or
11 retrofit, particularly the newer -- the 1232 cars,
12 where the big investment is, and yet, those cars carry
13 a pretty, you know, high book value, and the retrofit
14 costs are pretty substantial.

15 And for a leasing company, at least, we look
16 at, you know, what is the safety gain, what is the
17 marketability of that asset over the remaining life.
18 One of the unknowns, from my perspective, is how the
19 railroads will treat a retrofit car from a freight
20 perspective differently from a new DOT-117J.

21 We know that it will have a thinner tank
22 shell and so will there be penalties on the freight
23 side which, ultimately, will impact our ability to
24 market the car, it will affect the shippers who pay
25 those freight rates, and I don't know that we know the

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1 answer to that question today.

2 From my perspective at Wells Fargo, you
3 know, we're not anxious to retrofit anything, quite
4 frankly, we are adding new DOT-117s to the fleet as we
5 speak, 12 percent of our tank car fleet is now a DOT-
6 117, and that 12 percent includes all of our non-
7 flammable cars as well. Probably 25 percent of our
8 flammable cars are now DOT-117s, but we're faced with
9 the issues of what do we do with all the 1232 cars that
10 we invested in?

11 It certainly would be more palatable for us
12 if they met the pool and torch fire tests on a jacketed
13 car not to have to strip the jacket off and put a
14 pretty significant investment in that car for, I'm not
15 sure exactly what the safety gain would be, so those
16 are my comments.

17 MEMBER SUMWALT: Thanks. To be clear, let's
18 see, to retrofit a 1232 car, they will not have to have
19 the thermal blanket, is that correct?

20 MR. JOHNSON: No, on a non-jacketed car, we
21 understand the requirement to put the thermal blanket
22 and a new jacket. It's the cars that currently are
23 jacketed and have 4-inches of fiberglass insulation on
24 them already, will those jackets have to be removed,
25 the ceramic fiber applied, and then the insulation and

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1 jacket reapplied? It's a pretty substantial part of
2 the cost.

3 MEMBER SUMWALT: Sure. And I guess as I've
4 been commenting the last few days, all these numbers
5 and all are starting to run together in my head, so
6 that issue has not been resolved, is that correct?
7 Okay. All right. Thanks.

8 MR. JOHNSON: Thank you for having us.

9 MEMBER SUMWALT: Thank you very much. And,
10 you know, you mentioned the 1232s are also called the
11 good-faith cars, and they're called that for a good
12 reason, the industry came together October the 1st of
13 2011 and said, this is what we're going to do and
14 they're going to do it in good faith, and we believe
15 this is going to be the answer.

16 And so, I mean, I can understand the
17 disappointment that that's not the answer at this
18 point, but it was a very good-faith effort to try to do
19 the right thing for the right reasons, so thank you
20 very much.

21 And I don't think that anybody in this room
22 would disagree that keeping the trains on the track,
23 that's the first layer of defense, let's do that, and
24 so you're right, a lot of work's been done in that
25 respect and a lot will continue to be done in that

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1 regard. Thank you. Ray.

2 MR. MORGAN: First of all, I'd like to thank
3 you, as many have, for the opportunity to be here today
4 and to contribute. I think it goes without saying that
5 a number have commented and provided substantial input
6 here as to the pros and cons of where we're at, and how
7 we got here, and et cetera, and what still needs to be
8 decided.

9 What I'm most excited about is the
10 opportunity for us to leverage the things that took
11 place, such as the good-faith effort and the
12 opportunity for the industry to come together, the
13 stakeholders to come together, to figure out how best
14 to do these things in a proactive manner as opposed to
15 waiting for someone to decide, be it regulatory or et
16 cetera, so I'm most excited about that opportunity.

17 And what that really means is, how can we
18 leverage that to address other issues that affect
19 railcar transportation and safety? So I don't know
20 that I can add a lot to what's already been said. I
21 think there's some valid points here. There might
22 still be some opportunities to figure out better ways
23 or to improve upon what's been done thus far. Again, I
24 think the value is that if we do that together in
25 advance of the need for someone to make a decision for

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1 us, then we, as an industry, will be much better off.

2 I also would like to say thanks to the
3 industry for the opportunity to support those efforts,
4 to provide services, such as retrofits, such as
5 maintenance and qualification, and so forth, but again,
6 I don't know that I add much, except that I'm excited
7 to be here and thank you for the opportunity.

8 MEMBER SUMWALT: Well, thank you very much.
9 Thanks for being here. Nicholas, do you think we can
10 have the transcripts from this up by the end of next
11 week? What are you looking at turnaround? Okay. So
12 within two weeks we should have the transcript. And
13 I'm really excited about the transcript because I've
14 been a one-arm paper hanger trying to juggle, what's
15 the next question as well as listen, and so I'm afraid
16 I've missed out on some of the listening value, but I
17 do look forward to actually getting the transcripts and
18 reading them, and I think there's a lot of good meat in
19 here. Kelly?

20 MS. DAVIS: Well, the ethanol industry has
21 always been pro rail safety. We've been heavily
22 involved with the tank car committee since the Cherry
23 Valley incident, and we were complicit with the CPC-
24 1232 cars. It is new for me to hear today that the
25 CPC-1232 car may cost more to retrofit than the legacy

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1 DOT-111, so I'm still taking in that information.

2 I definitely concur with some of the first
3 speakers in information. As businesses move forward
4 they need to make risk-based management decisions, and
5 so the more information they have in front of them,
6 very similar to what Mr. Fronczak brought for us today,
7 I would love to see that on a semi-annual basis, if not
8 possible, a quarterly basis, and distribute it so that
9 we can all understand this, and distribute to our
10 members for them to understand what to do.

11 Rather than reiterating what other speakers
12 have said, I'm glad you brought up about ethanol and
13 safety on the rail. We have worked with TransCare
14 since the Cherry Valley incident and we have received
15 awards from TransCare the last four years in a row. We
16 developed an ethanol emergency response program years
17 ago that has just fed on itself.

18 We have trained over 5000 emergency
19 responders over the last few years and now we have
20 moved to what I call train the trainer classes, and
21 these train the trainer classes through the
22 International Association Fire Academy are so popular
23 that they're selling out as soon as we put them up on
24 the Web site.

25 So we have two more scheduled over the next

1 two months, and right now, we've already trained 630
2 trainers, so we're quite proud of our ethanol emergency
3 response organizations that we have and publications.

4 I also do want to comment on the other side
5 relative to, once an unfortunate accident happens,
6 there is a cleanup, and environmental mitigation, and
7 things like that to do, and we just recently hired
8 Pinnacle Engineering to redo our documents that are
9 freely distributable on our Web site.

10 There's a very valuable technical document
11 about how to cleanup and mitigate these ethanol
12 situations. So rather than reiterating what everyone
13 else has said, I too agree, I am thankful to be here
14 and I appreciate the opportunity to speak.

15 MEMBER SUMWALT: Glad to have you, Kelly.
16 Suzanne.

17 MS. LEMIEUX: Thanks for having me as well.
18 I think it's important to put in perspective that in
19 the U.S., daily, we consume 20 million barrels of oil,
20 all of it which is transported by marine, pipeline,
21 rail, or truck. We don't have a lot of incidents. I
22 think, in the industry, that we don't see
23 transportation as a risk. It's just a function of
24 business that we -- it's a critical function that we
25 feel is important to the economy, to the U.S., to

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1 viability as our economy globally.

2 And we feel our safety record is pretty
3 good, especially in transportation. We are glad to
4 have the rule finalized and we're looking forward to
5 251(b), because we think that will also enhance the
6 ability to respond to incidents. We've also worked
7 jointly with AAR to create a TransCare program for
8 emergency response, which is free. The Class-Is are
9 all using it as they train, so we're looking forward to
10 that information getting out.

11 And again, these conversations are really
12 helpful and we hope that we're able to communicate the
13 information that you need to understand what our
14 product is, how we move it safely, and how to continue
15 doing so in a collaborative way. Thanks.

16 MEMBER SUMWALT: Thanks, Suzanne. Gabe.

17 MR. CLAYPOOL: This is one of those
18 scenarios where you wish you could have gone first
19 because you've all taken my ideas, but I'm going to go
20 back to something that Mr. Bates started with, which is
21 the first responder side of things. It was
22 enlightening and concerning to me in the last several
23 years of being involved in the crude by rail,
24 specifically, industry how uninformed a lot of these
25 first responders are, specifically in rural America.

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1 You talked about ethanol being rural, but so
2 is crude by rail, and so there are all these
3 infrastructure that are going to these different
4 coastal facilities for the most part, so I would like
5 to see a more universal playbook that's widely
6 distributed and successfully trained upon. That's a
7 concern from our perspective that these men and women
8 that are going in there, from a first response
9 perspective, don't know what they're dealing with.

10 In the one example, I had a conversation
11 with a Minnesota hazmat training officer who told me
12 that, up until two years ago, 1267 was 1267, was crude
13 oil, and they didn't appreciate the difference in heavy
14 sour crude oil out of Canada versus the light sweet
15 Bakken crude oil, and the difference in the
16 composition, and what this will do under stress. So I
17 guess that would be an expansion of what Mr. Bates
18 started with is just a more consistent playbook and
19 also the training of it for these first responders.

20 MEMBER SUMWALT: Denford?

21 MR. JAJA: Not to sound like a broken
22 record, thank you for putting all this together and for
23 the opportunity to be part of this panel, and to a
24 point that's already been made, a lot of the points
25 have already been discussed and issued, but we, as a

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1 company, and as an industry, are fully committed to
2 safe crude rail operations and transportation, and we
3 support a holistic approach to the safe transportation
4 of our crude.

5 We believe that this should be, really, a
6 joint effort between the industry, the shippers,
7 railroads, the regulatory bodies, to approach this with
8 prevention, mitigation, and emergency response in mind.
9 We are fully supportive of a science and fact-based
10 approach to safety. We understand the fireballs make
11 interesting headlines, but we would urge that we
12 approach this on a scientific and fact-based approach.

13 But I would just like to finish off by
14 saying, you know, we still face a lot of uncertainty,
15 as has been mentioned by a couple of my colleagues
16 here, and the faster we can resolve some of these
17 uncertainties in ECP, and thermal insulation, and
18 thermal blankets, I think that'll give us some
19 certainty on the path forward with what we're going to
20 do with our railcars. Again, thank you for having us
21 and it's really been informative.

22 MEMBER SUMWALT: Denford, thank you for
23 being here. Andy.

24 MR. ASH: Yes, I've been just listening to
25 what everybody's been saying, and I've been kind of

1 thinking, rolling it over in my head, what I was going
2 to say, but here it goes anyways. From a Canadian
3 standpoint, and myself as a career railroader, boots on
4 the ground, and as a railroad dangerous goods
5 responder, you know, I think I can safely say that the
6 railways are extremely dedicated to safety; keeping
7 them on the rails. That's good business.

8 Unfortunately, it's a risk-based mode of
9 transport, as any mode of transport is, and accidents
10 do happen, so this is where what we have to do from,
11 how are we going to make things safer, and we've done a
12 lot of talks today, but we have to continue to
13 communicate, collaborate, and cooperate with each
14 other, all the different entities out there, and what
15 we work with.

16 We work hand-in-hand with Transport Canada,
17 we work with the FRA and PHMSA, actively involved in --
18 AAR tank car committee does tremendously good work with
19 RSI, and we work a lot with all the associations, the
20 petroleum producers, renewable fuels, we're all in the
21 same boat, and we're all in there working together, but
22 the common goal is safe transportation of dangerous
23 goods, or hazmat, since we're in the United States.
24 I'll use that term.

25 And the general public and our customers

1 depend on us to do that, so that's why it makes our
2 work, what we're doing here, so important. And lastly,
3 a good example of that is what we're doing today, so I
4 got to thank the NTSB for putting this panel all
5 together to come and discuss the issues. Thank you,
6 sir.

7 MEMBER SUMWALT: Well, let me assure you
8 that this panel would be nothing if it weren't for the
9 participants like yourself and everyone else here, so
10 thank you very much. Bob, you're up.

11 MR. FRONCZAK: Again, thank you for inviting
12 me. It's been a great discussion. I guess I will have
13 to reiterate what Mr. Bates said, and this is one, you
14 know, area where rail management and rail labor is
15 together, we would like to see the phase out of, you
16 know, the 111s and the CPC-1232s as soon as possible,
17 or to put it a different way, we'd like to see
18 everything converted to a 117, 117R as soon as
19 possible.

20 Having said that, I can't snap my fingers
21 and make that happen overnight. You know, there are
22 deadlines set in the FAST Act that are reasonable. If
23 they can be beat, that'd be great.

24 MEMBER SUMWALT: Fantastic. And I keep
25 saying we'll get to this question, but yes, I'm looking

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1 forward to the discussion about what can we do to
2 incentivize the accelerated phase out, or phase in,
3 depending on which way you look at it. Ken.

4 MR. DORSEY: I guess I'm going to echo the
5 uncertainty. I've seen great safety innovations that
6 were delayed in implementation because people were
7 uncertain of what the final target would be, so where
8 we can eliminate the uncertainty to establish a firm
9 final target, and I'll a little self-serving here, I'd
10 like that to be both sides of the border because I have
11 to work for folks both side of the border, but I'd like
12 to see that come out of discussions like this so that
13 we can actually nail down what goals we are going to
14 achieve and everybody can work towards them.

15 MEMBER SUMWALT: Great. And to that end,
16 when kind of get into the open discussion here for the
17 last few minutes, not now, but one of the questions I
18 do want to ask Andy and either you, Ken, or Bob, is the
19 harmonization across the border, so be thinking about
20 that one because we certainly don't want a different
21 level of safety depending on which side of the border
22 you happen to be on, so be thinking about that one, so
23 we'll ask that, so, Karl?

24 MR. ALEXY: Well, first, I'd like to thank
25 you for thanking us for the rule. That's the first

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1 time that's happened, but this has been a great
2 opportunity. You know, we, as regulators, participate
3 in a lot of these types of forums. I mean, we have,
4 you know, the tank car committee we participate in, we
5 meet with shippers, we meet with the RSI, and this is,
6 for us, really important to obtain information.

7 Sometimes I'm guilty of it, I sit inside the
8 beltway and think I know it all, and then I start to
9 hear from these folks and they straighten me out,
10 often, and they do it nicely, so I appreciate that,
11 except for Ken. So these are important opportunities
12 for us.

13 For me, one of the big things that I think
14 that we can get done is educating people. I think
15 educating people outside of this group. We have a lot
16 of people responding to things that -- you know, things
17 like properties of material, those type of things. I
18 mean, we are focused here on the tank car. I've heard
19 it mentioned a couple times that we need to focus on
20 preventing these derailments. I think, for me, for
21 everybody, that's the biggest deal.

22 But making sure everybody's educated. We
23 have folks here in Washington, D.C. who put demands on
24 our agencies to do things. They have a very -- they're
25 not as educated as they need to be about what's going

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1 on, and I think it's incumbent upon us to do our best
2 to make sure they know the whole story, they understand
3 the implications of what they're asking us to do, so
4 that's another important thing.

5 Let's see, and I guess that's it. I mean,
6 everybody else, what everybody has said, you know,
7 thank you for this opportunity. Other things, we're
8 working on, you know, the uncertainty around the
9 thermal protection. You know, we're taking a hard look
10 at that. We're not taking it lightly. We understand
11 what it means to industry and we understand what it
12 means not just to the cost, but the schedules and
13 everything, so be certain that we are taking it very
14 seriously, so once again, thank you.

15 MEMBER SUMWALT: You're welcome. And I
16 guess that decision on whether or not there's a thermal
17 protection required, that will be -- does that have to
18 be resolved by the one year after the passage of the
19 FAST Act, is that part of that, or when will that --
20 that's not a part of that.

21 MR. ALEXY: There's no time limit. We're
22 just making sure we've got all the information we need
23 at this point.

24 MEMBER SUMWALT: Got you. Thank you. Okay,
25 Rob.

1 MR. BENEDICT: Well, thank you. I think
2 this has been a great day of collaboration and before I
3 get to my concern I just wanted to kind of thank
4 everybody in this forum and beyond for collaboration,
5 whether it be a TRB subcommittee, or commenting to our
6 rules, or working together with AAR on modification
7 reporting. I feel like it's, collectively, we worked
8 very well even though our interests don't always align.

9 As far as my concern, I think my biggest
10 concern would be hearing of cars being built and not
11 being used, and while the FAST Act cements, states,
12 those are, like as we mentioned, deadlines, not
13 requirements, so I would just urge, to the extent
14 feasible, go beyond business interests or obstacles and
15 try to get those on the track, whether they be a
16 retrofitted car or a new DOT-117, and I think that
17 would go a long way.

18 Lastly, just kind of a comment, I think it's
19 very important that we're transparent in this and I
20 think, you know, I know one of your big concerns is
21 modification reporting, and I think putting those
22 numbers out there for the public, which, we're working
23 together with AAR, will go a long way at letting the
24 public know where we are at on those retrofit
25 schedules.

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1 Just one comment, as far as a percent
2 completed timeline, that's a little bit more difficult
3 nut to crack because it's not a constant rate, and as
4 we've seen with this, demand changes, that changes, so
5 thank you again for having me and it's been a pleasure.

6 MEMBER SUMWALT: Been our pleasure to have
7 you. Ben.

8 MR. SUPKO: So I hope I can clear up a
9 couple things that came up, the oil spill response plan
10 rule, HM-251(b), it was signed today, so it's been
11 submitted to the Federal Register, it'll probably be on
12 our Web site tonight, so you can take a look at that.
13 And that's kind of, like, I guess, the crux of my
14 comment here is, you know, we got really good at
15 writing rules when we wrote the HHFT rule, so we're
16 writing more, so we have several right?

17 So you have the oil spill rule, you have a
18 rule for the -- several rules in the FAST Act, we're
19 working through RSAC on some other rail issues, so I
20 think it's important that if there are unresolved
21 issues with the HHFT, the HM-251 rule, we can, of
22 course, take those back, but please also express
23 through petitions or other mechanisms to ensure that
24 our leadership is seeing it in different ways, because
25 some of these things, today was the first time I'd

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1 heard about them.

2 So I mean, I know there's out there, but
3 there's so much going on that we're all focused on our
4 little pieces, so if we can get a more formal input
5 through a petition system, that always helps to push
6 things through and make them a little bit faster.

7 And, Robert, I liked your comment, I thought
8 that was very smart, you know, just because the
9 timeline is established, and this is what it is, maybe
10 the car that's the last car on the list that has a
11 thermal blanket that meets 179.18, the CPC-1232, maybe
12 that can move to the front, so that it's done, it's
13 cheap, it's easier, you know it can be used.

14 There are new ways that we can think about
15 this, that, a lot of the times, you know, we get
16 legislation, we get different things that we have to
17 comply with that tie our hands a bit and it would take
18 us a little longer, but there's nothing stopping
19 industry from coming in and saying, hey, this is what
20 we want to do, or just doing it, and moving that ball
21 forward, because like I said, rules will continue to
22 come, pressures will continue to build, and I'm sure
23 that this isn't the last action, these aren't the last
24 actions, on this issue.

25 MEMBER SUMWALT: Ben, HM-251(b), so is that

1 the NPRM to codify the requirements of the FAST Act?

2 Is that what that is?

3 MR. SUPKO: So that was the oil spill
4 response plan and the information sharing rule, so it
5 deals with the CRC notification under the EO, it deals
6 with comprehensive oil spill response plans, and it
7 also will address API RP3000.

8 MEMBER SUMWALT: When will there be a
9 rulemaking effort -- I mean, when will the NPRM be out
10 to codify the requirements of the FAST Act?

11 MR. SUPKO: So in terms of the thermal
12 protection, the top fitting, and the schedule?

13 MEMBER SUMWALT: Yes.

14 MR. SUPKO: We're not doing an NPRM, we're
15 just doing a final rule, and that is in its final
16 stages of review, so I'm hoping -- I want to say in the
17 next month, but I'll say before the end of summer.

18 MEMBER SUMWALT: Great. And I think the
19 requirement is it has to just be done by the one-year
20 anniversary of the FAST Act, I think.

21 MR. SUPKO: Yes, the timeline for the
22 changes to the schedule were immediate. The timeline
23 for, I believe, the thermal protection was 180, top
24 fitting protection was kind of open-ended, but the
25 thermal protection was 180 days.

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1 MEMBER SUMWALT: Okay.

2 MR. SUPKO: So we're pushing those timelines
3 already, so we're really going as fast as we can to get
4 that out.

5 MEMBER SUMWALT: Fantastic. Great. Thank
6 you. Leonard?

7 MR. MAJORS: Let me start by saying, thank
8 you for the opportunity to be a part of this
9 roundtable. It's been really enlightening to see
10 everybody's role and obligation with rail safety. I
11 know that there is still some work on our part to
12 clarify the tank cars with the jacket and the
13 fiberglass. We're working and we're working really
14 hard to kind of like clarify that.

15 Also, my takeaway is that, you know, this
16 group has enlightened me on some of the issues that
17 were outside of the tank car as well, so I just want to
18 say thank you for the opportunity.

19 MEMBER SUMWALT: Appreciate your comments.
20 We started out with poignant comments by Willy Bates,
21 who's representing SMART, and these are the guys that
22 are, in part, operating the operating crews of the
23 locomotives, the engines who are hauling this. And he
24 made very compelling comments and now we'll end up with
25 a gentleman that came from Oregon, Hale Gard, who is

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1 the administrator of Rail and Public Division of
2 Oregon's DOT, and of course, you have the same concerns
3 that the rest of us have, but your state has
4 experienced it most recently, so thank you for being
5 here.

6 MR. GARD: Well, I appreciate the
7 opportunity to sit in and really listen to this. This
8 is a conversation with regard to equipment and how it
9 responds after an accident, and that's an appropriate
10 for industry, and the shippers, and the regulatory
11 agencies to see how that equipment works.

12 From a state safety oversight standpoint,
13 however, our primary goal is not to have it happen at
14 all. And, you know, when you ask me the one thing that
15 I'd want to see happen, Mosier, it was a bad day, it
16 wasn't a horrific day, the 1232s actually performed
17 pretty well in spite of the fact that we had a car
18 breach, but that fire was out in less than 12 hours.
19 It took 25 gallons of foam to put it out.

20 The incident command process worked really
21 well. We still had scared people and we still had
22 evacuations. We still are going to deal with the
23 aftermath of that accident for a while. So for me, the
24 one thing is to make sure that we've got the best
25 inspection and prevention techniques and technologies

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1 that we can possibly deploy because it was an expensive
2 day for the railroad, it was an expensive day for the
3 City of Mosier, it was an expensive day for the State
4 of Oregon, so prevention for us is always going to
5 everybody first and foremost.

6 I do want to make sure we've got the best
7 equipment out there so that it responds as it should in
8 case we have a derailment, but no derailment is my
9 preferred standpoint from all the way around, but this
10 discussion was great and every interaction I've had
11 with the rail industry, I see this level of
12 collaboration and cooperation all the time, and again,
13 it makes me feel that I'm working with the best and the
14 brightest and the folks that really care about safety,
15 so thank you, and I appreciate the opportunity.

16 MEMBER SUMWALT: Well, thanks for coming all
17 the way from Oregon. I know many of you travel long
18 distance. In fact, Greg was headed back to Oregon and
19 a lot of you have come from a long distance, then some
20 of you had to ride the Metro this morning, which has
21 been interesting.

22 You know, I think this is a good high note
23 to end on, is the fact to have everybody go through and
24 express your feelings and your thoughts, and I really,
25 we had a stack of questions for this last one, but I

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1 really just want to ask two questions, and then end it
2 on this, and that is, the incentives. I believe, not
3 that we're commenting on legislation, but a year and a
4 half or so ago, Senators from Oregon introduced a bill
5 that might have provided some incentives to move
6 quickly.

7 And I understand in the next day or so, a
8 Congresswoman from Oregon might be offering some
9 legislation to be a companion bill for that on the
10 House side. So let's talk about incentives I mean,
11 what are the thoughts about maybe investment tax
12 credits, tax credits, I mean, what are the thoughts for
13 that? Any thoughts?

14 Okay. And then there's the other side of
15 the issue, which nobody's going to want to talk about,
16 and that would be the tariffs, so no one wants to talk
17 about that, but nevertheless, there's some innovative
18 ways. What would be some innovative ways to spur this
19 idea of an accelerated schedule? Any thoughts to that?
20 What would you like to see as a tank car owner, if it's
21 not proprietary.

22 I mean, you mentioned, I think, Greg, that
23 you spent a lot of money a few years ago and now you're
24 seeing a different set of requirements.

25 MR. JOHNSON: I don't know what the answer

1 is, but certainly just from an economic standpoint,
2 whether it be a leasing company, or a shipper that
3 owns, you know, 1232 cars, I think, you know, anything
4 that would help mitigate, you know, the double-whammy
5 kind of thing that Dick was talking about. We already
6 have, you know, an asset that we bought brand new,
7 maybe as recently as 2011, that, you know, is going to
8 be faced with some kind of a retrofit, and the
9 retrofits aren't inexpensive.

10 So if there was anything that could
11 incentivize, you know, a leasing company or a shipper
12 private owner to replace or upgrade the cars sooner, I
13 think that's something that, you know, could spur
14 movement faster rather than later.

15 MEMBER SUMWALT: Thanks.

16 MR. KLOSTER: Okay. So after consideration,
17 I have a comment about, high level, investment tax
18 breaks. The last time the industry did it in a big way
19 was back in the '70s, and it triggered an
20 overinvestment in certain kind of railcar that,
21 depending on which side of the fence you were on, was
22 problematic, okay?

23 I think going forward, you know, there's
24 that, you know, law of unintended consequences, so if
25 there was any investment tax credit program that came

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1 out that would be -- it would have to be very targeted
2 to help get over the hump. You have the rules, and
3 then you talk about wanting -- just to be blunt, the
4 regulators have decided what the rules are and they've
5 given them to industry. It's now up to industry to
6 implement them.

7 But then on the other side, we say, well, we
8 want industry to go and speed up. Well, that's up to
9 industry, okay, unless you go back and redo the rule.
10 So if you come out with some sort of, you know,
11 incentive, investment tax credit, say, to incent the
12 owners of the equipment to move faster, then you need
13 to make sure that you get the right outcome, okay? So
14 that's my main comment there.

15 The other thing I want to say is, you have
16 to understand too, 80 percent of all tank cars are
17 owned by private companies, publicly traded or
18 privately owned, but, you know, private companies,
19 essentially, and a lot of them are big banks. And a
20 lot of them have -- you know, the short line railroads,
21 as an example, there's a long time, you know, grants
22 and loans that's been going on, not so much on the
23 equipment side, and I think you might see the owners of
24 the equipment not necessarily wanting to get into that
25 because of the oversight implications.

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1 I'd rather invest my own money and not have
2 to worry about the obligations I would have from a
3 reporting requirement than take on what would be
4 perceived as those smaller advantages of getting that
5 and then having the onerous reporting.

6 MEMBER SUMWALT: Fascinating perspective and
7 I never had -- I mean, it really is fascinating, so I
8 figured everybody would be all over the idea of
9 investment tax credit, and that's a very interesting
10 comment, and I think I head a comment. Did I hear
11 another comment over here? Great. Well, Dick, thank
12 you for that. Let me just closeout on this one, and,
13 Bob, or Ken, or Andy, I guess, really, it would be, I'd
14 like to hear both from AAR and RAC, about the
15 harmonization of rules between the U.S. and Canada.

16 As I said before, well, I remember when we
17 had our public hearing on crude by rail, April of two
18 years ago, on the day that we had that hearing, Canada
19 had come out, Transport Canada had come out, with rules
20 that restricted, just absolutely cutoff the shipment of
21 flammable liquids, maybe crude by rail, in a certain
22 type of tank car by a certain date, and we had not
23 gotten there yet.

24 And I said, you know, we're going to have
25 two different levels of safety. Somebody living on one

1 side of the border, down on this side of the border,
2 will have a different level of safety than somebody on
3 the other side of the border, and so where are we with
4 respect to harmonization? And we'll closeout on that
5 one question right there.

6 MR. ASH: We're all for it. You know, I got
7 to be careful about my words because I don't want any
8 visits from Transport Canada, or anything like that,
9 but, you know, our position in Canada is very clear
10 that we encourage harmonization between the Canadian
11 and the U.S. regs, for obvious reasons, and we
12 understand that -- and we're always willing to work
13 with the Canadian rule makers on that, and we do.

14 And to be honest with them, they're fully
15 committed to work with us as well, so we continue to do
16 that and, you know, from a safety standpoint, we don't
17 have any issues at all, but there are certain
18 harmonizations, little nuances out there, little
19 differences, but, you know, the goal is safety overall,
20 obviously.

21 And not only that, but good seamless
22 transport or shipments.

23 MEMBER SUMWALT: AAR, thoughts on that?

24 MR. DORSEY: Well, I might have to echo
25 Andy. We're all for it. I think the only thing

1 hanging out is actually the difference between
2 unrefined petroleum products and petroleum distillate,
3 and that, actually, is only a short-term thing. It
4 only really affects the first deadline. In the long
5 game, I think the FAST Act did an awful lot to
6 harmonizing. I don't think there's any big items for
7 safety hanging out. The FAST Act did a really good
8 job.

9 MEMBER SUMWALT: Great. Thank you. Two
10 items, one would be, if you will, fill out your
11 critiques, if you will kindly, and just leave them on
12 one of the tables upstairs or in the foyer, the other
13 is, as we closeout, I mentioned this yesterday when
14 some of us met in here just to kind of go over the
15 ground rules, but when I was given this flyer, back
16 during the spring, for me to edit, I made some comments
17 to the text. I didn't pay a whole lot of attention to
18 what was said upfront.

19 It says, "NTSB Member Robert Sumwalt
20 proposed a roundtable discussion.", and as I saw that
21 on the big posters I became every self-conscious of it,
22 because it's not, yes, I'm the one with the microphone,
23 but there's been a lot of work by the team, and I want
24 to fully recognize that team.

25 I'm honored to work with these folks that

1 really put this together. You assembled, as I said
2 yesterday, and I've said today, a world-class audience
3 of people that truly have expertise in tank car
4 manufacturing, leasing, regulation, rail safety, and
5 you've done a great job.

6 So we'll start, Nicholas Worrell is, again,
7 the Chief of Safety Advocacy and this is an advocacy
8 project, so, Nicholas, thank you and your team. Paul
9 Stancil, Rachael Gunaratnam, I've been practicing that
10 and I still can't get it right, oh, my God, there's
11 another one, John Vorderbrueggen.

12 Thank you all and everybody that comes with
13 that. I always like to thank Trey and Diedre in the
14 audio both for making all this work. They've got to
15 put up with following me all around and keeping my bald
16 head out of the picture. Manuel, thank you for coming
17 from Transport Canada, and finally, thank all of you
18 all again for coming and participating. This
19 roundtable would be absolutely nothing if it weren't
20 for you. Thank you and Godspeed. Keep up the great
21 work.

22 (Whereupon, the above-entitled matter went
23 off the record at 3:32 p.m.)

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Rail Tank Car Safety
Roundtable Discussion

Before: National Transportation Safety Board

Date: 07-13-16

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
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Court Reporter

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