



Representative Lauren McNally
59th House District

Thank you, Representative Blasdel, and good afternoon Chair Peterson, Vice Chair Thomas, Ranking Member Forhan and members of the House Government Oversight Committee. It's my pleasure to give you more information on why this resolution is timely and necessary.

The Hazardous Materials Transportation Act (HMTA), enacted in 1975, is the principal federal law in the United States regulating the transportation of hazardous materials. It regulates all essential modes of transportation due to the dangers hazardous materials can present during shipment by ground, air, sea, or any other mode of transportation, such as through a pipeline. Its purpose is to "protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce" under the authority of the United States Secretary of Transportation.

A hazardous material, as defined by the Secretary of Transportation, is any particular quantity or form of a material that may pose an unreasonable risk to health and safety or property during transportation in commerce. This includes materials that are explosive, radioactive, infectious, flammable, toxic, oxidizing, or corrosive. There are 9 classifications for cargo listed as HAZMAT dangerous cargo.

As the Act stands now, the Department of Transportation (DOT) is most concerned with the test conditions of packages, rather than the transportation conditions of the material. Enforcement includes random packaging inspections by DOT inspectors at freight terminals, intermodal transfer facilities, airports, and other facilities to determine compliance with proper marking and labeling of packaging. It does not include information that empowers us to timely and appropriately respond following derailment of a train carrying hazardous material.

Today, a "high hazard flammable train" (HHFT) is defined as a train comprised of 20 or more loaded tank cars of a Class 3 flammable liquid in a continuous block, or a train with 35 or more loaded tank cars of a Class 3 flammable liquid across the entire train. Does an HHFT train pose a risk to the health and welfare of Ohioans if derailed in our communities? Do Ohio's state and local governments know when HHFTs are on the tracks in our communities? What about trains comprising fewer than 20 or 35 cars with Class 3 flammable liquids? Our resolution simply asks that the Federal Government take a look at this definition, and others it has on the books, through the lens of the crisis happening in East Palestine.

I'm encouraged by a visible appetite for change on these issues at the Federal level making HR 33 even timelier. Senators Vance and Brown of our Ohio federal delegation introduced a bill addressing several key regulatory questions that have arisen from the disaster. These include why

the state of Ohio was not made aware the hazardous load was coming through and why the crew didn't learn sooner of an impending equipment malfunction.

Highlights of this bill include:

- All trains carrying hazardous materials, including those that don't fall under existing regulations for high-hazard flammable trains filled with crude oil or ethanol, would face new requirements.
- Rail carriers would need to create emergency response plans, and provide information and advance notification to the emergency response commissions of each state a train passes through.
- U.S. Department of Transportation would be required to revisit rules on train size and weight, and to work to prevent railroad delays from causing trains carrying hazardous loads to block rail crossings.
- Require long-haul railroads to pay for hazardous-materials training for local first responders, including police and EMTs.
- Set nationwide requirements for installing, maintaining and placing the wayside detection devices — and mandate that they scan trains carrying hazardous materials every 10 miles (16 kilometers). The last two detectors the East Palestine train passed were 19 miles apart.
- Update inspection regulations to assure rail cars carrying hazardous materials receive regular checks by trained mechanical experts.

Additionally, the U.S. House of Representatives introduced its own bill regarding these issues. Its goal is to ensure that trains carrying hazardous materials are properly classified and required to take the corresponding safety precautions.

Railroad tracks run throughout our communities and knowledge is power. It is the power to prevent, to react, and to ensure safety. Right now Ohioans, including their elected leaders and safety responders, have limited knowledge and power when it comes to what's moving through our own backyards on these railroad tracks, thereby limiting our ability to provide proper and strong prevention and protection against disasters.

The state and our local communities would be well within our legal rights to create programs, policies and procedures to address this knowledge gap, but those rights have limits. We can't act more locally without the authority of the federal government. That's where the relationship between the federal government and state government can be strengthened.

Much of the information we need to strengthen our own safety policies and disaster responses is already being collected. Currently, railroads must fill out forms with the United States Environmental Protection Agency before shipping hazardous materials. To have this information disseminated appropriately to us requires federal action. HR 33 isn't asking Congress to invent a new data collection program, or place a strenuous burden on the federal government. It simply asks to share that knowledge. That is what HR 33 aims to do - to make clear our support for information sharing and better federal safety laws.

On average there are 1000 train derailments a year and Ohio has a lot more than other states. In fact, Ohio ranks 3rd in the U.S. for railroad mileage at just over 5,000 miles, making us disproportionately more likely to be affected by these derailments. In fiscal year 2020, the latest year with posted data, railroad inspectors recommended 3,211 violations nationwide for hazardous materials. Ohio ranks third in the nation for train accidents over the last five years, with 304 accidents, costing us \$20M in damage. This should not be acceptable to us as members of the Ohio House of Representatives, who have been entrusted to protect our neighborhoods.

Much like Congress passed the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), borne out of the recognition that no matter what safety precautions are taken, no matter how well trained a plant's employees may be, and no matter how prepared a plant may be to handle an emergency situation, accidents may still occur, I'm hopeful Congress will pass updates to railway safety that keep local and state governments and safety responders in mind. The purpose of this act was to encourage and support emergency planning for responding to chemical accidents; and to provide local governments and the public with information about possible chemical hazards in their communities. So, too, can be these updated railroad measures that HR 33 communicates support for.

As elected members of the Ohio House of Representatives, it is our responsibility to show leadership within the state of Ohio and to those living in our districts. HR 33 goes hand in hand with our recently passed Transportation Budget, which includes the requirement of PUCO to produce a report detailing the current amount of hazardous materials moving around our state. We made a clear statement with the Transportation budget that what happened in our community is unacceptable and that we will continue doing whatever is necessary to prevent it from happening again. Let's give Ohioans even more peace of mind and advocacy for their communities by supporting federal efforts.

Chair Peterson, Vice Chair Thomas, Ranking Member Forhan and members of the House Government Oversight Committee, we thank you for your time and the opportunity to testify on HR 33. We would be happy to answer any of your questions.