Committee Report

CONSENT CALENDAR

February 19, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Transportation to which was referred HB 329,

AN ACT relative to storage of rail cars containing hazardous materials. Having considered the same, report the same with the following resolution:

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Travis O'Hara

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Transportation**
Bill Number:	**HB 329**
Title:	**relative to storage of rail cars containing hazardous materials.**
Date:	**February 19, 2021**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

While the committee understands the intent of the bill, we all understand how dangerous New Hampshire winters can be. One of the most common materials included in this bill is home heating fuels, that have no other storage options. We fear that not having the cars close to people, risks long outages that could be deadly. Lastly, we feel that moving the storage cars every 72 hours, because the law would say so, would increase the risk of spillage.

Vote 19-0.

Rep. Travis O'Hara
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Transportation

HB 329, relative to storage of rail cars containing hazardous materials. **INEXPEDIENT TO LEGISLATE.**

Rep. Travis O'Hara for Transportation. While the committee understands the intent of the bill, we all understand how dangerous New Hampshire winters can be. One of the most common materials included in this bill is home heating fuels, that have no other storage options. We fear that not having the cars close to the people we risk long outages that could be deadly to the people. Lastly, we feel that moving the storage cars every 72 hours, because the law would say so would increase the risk of spillage. **Vote 19-0.**

Original: House Clerk
Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on

BILL TITLE: HB 329 relative to storage of rail cars containing hazardous materials

DATE: 2/19/21

LOB ROOM: 301-303

MOTION: (Please check one box)

☐ OTP X☐ ITL ☐ Retain (1st year) ☐ Interim Study (2nd year) ☐ Adoption of Amendment # _________ *(if offered)*

Moved by Rep. _____O'Hara______________Seconded by Rep. __Gorski_________________Vote: 19-0 _

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Interim Study (2nd year) ☐ Adoption of Amendment # _________ *(if offered)*

Moved by Rep. ___________________ Seconded by Rep. _____________________ Vote: __________

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Interim Study (2nd year) ☐ Adoption of Amendment # _________ *(if offered)*

Moved by Rep. ___________________ Seconded by Rep. _____________________ Vote: __________

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Interim Study (2nd year) ☐ Adoption of Amendment # _________ *(if offered)*

Moved by Rep. ___________________ Seconded by Rep. _____________________ Vote: __________

CONSENT CALENDAR: __X___ YES _____ NO

Minority Report? ______ Yes ______ No If yes, author, Rep: ________________ Motion ________

Respectfully submitted: _________________Karel Crawford_______________________
Rep Karel Crawford, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/22/2021 10:08:26 AM
Roll Call Committee Registers Report

2021 SESSION

TRANSPORTATION

Bill #: HB 329 **Motion:** ITL **AM #:** **Exec Session Date:** 2/19/21

Members	YEAS	Nays	NV
Walsh, Thomas C. Chairman	X		
~~Gagne, Larry G. Vice Chairman~~ Rep.Torosion	X		
Crawford, Karel A. Clerk	X		
Smith, Steven D.	X		
Hill, Gregory G.	X		
Aron, Judy F.	X		
Ankarberg, Aidan	X		
Gorski, Ted	X		
O'Hara, Travis J.	X		
~~Pitaro, Matthew~~ Rep. True	X		
Sykes, George E.	X		
Cleaver, Skip J.	X		
~~Fenton, Donovan W.~~ Rep. Grasse	X		
Pickering, Daniel R.	X		
Rich, Cecilia	X		
Telerski, Laura D.	X		
Fox, Dru	X		
Stevens, Deb	X		
Veilleux, Daniel T.	X		
TOTAL VOTE:	19	0	

Public Hearing

HOUSE COMMITTEE ON TRANSPORTATION

PUBLIC HEARING ON

BILL TITLE: HB 329 relative to storage of rail cars containing hazardous materials

DATE: 2/12/21

LOB ROOM: 301-303 **Time Public Hearing Called to Order: 9:44 am**

Time Adjourned: 10:30 am

Committee Members: Reps. Walsh, Gagne, Crawford, Smith, Hill, Aron, Ankarberg, Gorski, O'Hara, Pitaro, Sykes, Cleaver, Fenton, Pickering, ~~Rich~~, Telerski, Fox, Stevens and Veilleux Rep. Newman

Bill Sponsors:
Rep Thompson

TESTIMONY

- Use asterisk if written testimony and/or amendments are submitted.

This bill regulates the storage of rail cars containing hazardous materials.
*Rep. Thompson has asked stickers to be put on the rail cars to say what is in them. Many of these cars are too close to residence home and do not know what is in them.
Q -Rep. Gorski Who is in charge of putting placket on the rail cars? A Railroad company
Q -Aron What is the concern with propane and oil in these cars? It would be an explosion, my district the cars seem to be all propane, even when empty there is still potential of explosion with the gases in the car.
Has there ever been a problem in NH with these cars? A. Not that I am aware of
Q- Cleaver- does this fall under American railroad, No

*Christopher Wagner – AmeriGas Propane L.P opposed to bill. Has written testimony
Q – Rep. Aron – How do you protect the public from these hazardous materials? A. DOT is in charge of security with many monitoring aspects.
Rep. Cleaver On an average what is the amount of time of storage A difficult to answer because of delays of deliver of cars due to storms, sticks etc.

*Cynthia Scarano – Pam Am Railways – Vice President opposed– Concerns are safety and energy supply in NH. Worked for 12 years. If this bill would pass we would have a problem getting it to NH in time.

Patrick Herlihy – NH DOT opposed

Robert Sculley – NHMTA Motor transport Assoc. opposed weather interruption unpredictable

Thomas Mason – CEO Easton Propane and Oil in Rochester NH and Robert Lefebvre opposed to the bill. Would not be able to deliver fuel on time;

*Leslie Anderson Public opposed – President of Propane Gas – opposed association would add millions of dollars they would have to run trucks instead of rails.

Rep. Newman taking Rep. Rich place

House Remote Testify

Transportation Committee Testify List for Bill HB329 on 2021-02-12

Support: 1 Oppose: 15 Neutral: 1 Total to Testify: 9

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	Signed Up
Scarano, Cynthia	cscarano@panamrailways.com	A Member of the Public	Pan Am Railways	Oppose	Yes (5m)	No	2/9/2021 3:44 PM
thompson, dennis	dennis@nnefs.com	An Elected Official	Myself	Support	Yes (5m)	No	2/11/2021 1:56 PM
Wagner, Christopher	Christopher.Wagner@amerigas.com	A Member of the Public	AmeriGas Propane L.P.	Oppose	Yes (3m)	No	2/11/2021 5:53 PM
Herlihy, Patrick	patrick.herlihy@dot.nh.gov	State Agency Staff	NH DOT	Oppose	Yes (3m)	No	2/9/2021 9:12 AM
Sculley, Robert	rjsculley@nhmta.org	A Lobbyist	NHMTA	Oppose	Yes (3m)	No	2/11/2021 11:48 AM
Manson, Thomas	tmanson@eastern.com	A Member of the Public	Myself	Oppose	Yes (3m)	No	2/11/2021 11:44 AM
Lefebvre, Robert	blefebvre@eastern.com	A Member of the Public	Myself	Oppose	Yes (2m)	No	2/11/2021 12:10 PM
Jeffrey, Edward	ewj@myfairpoint.net	A Member of the Public	New Hampshire Central Railroad Inc.	Oppose	Yes (0m)	No	2/5/2021 6:23 AM
Anderson, Leslie	leslie@pgane.org	A	Myself	Oppose	Yes (0m)	No	2/11/2021 11:40

		Member of the Public					AM
Ermer, Charlie	ce@palmergas.com	A Member of the Public	Myself	Oppose	No	No	2/11/2021 11:55 AM
Young, Peter	pyoung@vrs.us.com	A Member of the Public	New England Southern Railroad	Oppose	No	No	2/9/2021 11:24 AM
Leishman, Peter	prleishman@aol.com	An Elected Official	Myself	Oppose	No	No	2/9/2021 3:38 PM
Hunter, Charles	charles.hunter@gwrr.com	A Member of the Public	Myself	Oppose	No	No	2/9/2021 4:30 PM
Dorr, Alan	alan.dorr@deadriver.com	A Member of the Public	Dead River Company	Oppose	No	No	2/11/2021 2:38 PM
Herr, David	dherr@blacklinemidstream.com	A Member of the Public	Sea 3, Newington, NH	Oppose	No	No	2/11/2021 4:31 PM
Campbell, David	campbelldavidb@comcast.net	A Lobbyist	NH Northcoast Railroad	Oppose	No	No	2/11/2021 11:27 PM
Rathbun, Eric	ericsrathbun@gmail.com	A Member of the Public	Myself	Neutral	No	No	2/12/2021 6:43 AM

Testimony

PGANE
PROPANE GAS ASSOCIATION
OF NEW ENGLAND

1024 Suncook Valley Hwy, C5
PO Box 1071
Epsom, NH 03234

February 12, 2021

TESTIMONY OF LESLIE ANDERSON
President and CEO of the Propane Gas Association of New England

BEFORE THE NEW HAMPSHIRE SENATE COMMITTEE ON TRANSPORTATION

Concerning HB 329 - An Act Relative To Storage Of Rail Cars Containing Hazardous Materials

The Propane Gas Association of New England (PGANE) is pleased to have the opportunity to offer its comments in opposition to **HB 329 - An Act Relative To Storage Of Rail Cars Containing Hazardous Materials.**

PGANE is a regional alternative energy trade association representing members of the propane industry in the six New England States, including over 40 propane marketers in New Hampshire. We exist to serve the industry by promoting safety, education, and public awareness of the uses of propane. Our membership includes propane companies and suppliers, including numerous small companies who are often family owned and operated, many for several generations. Propane on demand hot water heaters, cooktops, and furnaces produce less greenhouse gas emissions than electric grid heat pumps, as well as less nitrogen and less sulfur oxides. Propane is a recognized clean alternative fuel by EPA under the 1990 Clean Air Act, and it is an essential backup for our ever-increasing use of the electric grid. Using clean propane energy accelerates decarbonization and access to clean propane ensures environmental equity.

We oppose HB 329 as it would threaten the health and safety of New Hampshire's citizens. We rely on propane railcars in New Hampshire to supply over 230,000 residential consumers, as well as critical public services, and businesses. Rail transportation is the most economical, cleanest, and safest method to supply propane to our infrastructure throughout the state.

Resiliency and energy security are of fundamental importance in protecting the critical infrastructure within the state, ranging from commercial and municipal needs such as backup power generation for hospitals to residential needs such as boiling water and cooking food.

Utilizing rail cars reduces the number of trucks on our state highways, as one rail car is the equivalent of three eighteen-wheeler transport trucks. This reduces the burden of vehicles on our state roads and highways and lowers the risk of vehicle incidents.

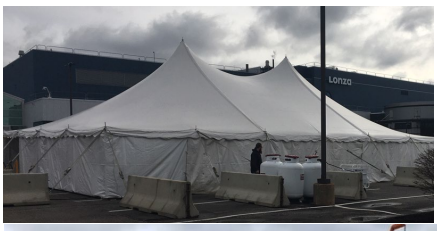
At times there will be train delays due to winter storms that slow down rail traffic due to heavy snows, unforeseen natural disasters such as floods that may wash out rail bridges, or rail strikes in Canada that disrupt logistics. For these reasons, railroads and rail customers have built in additional supply to ensure that they have a working inventory readily available. By doing so, the propane industry not only provides warm

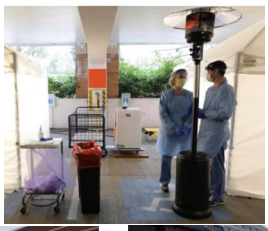
heating and hot water to New Hampshire's homes and businesses year-round, but it also protects the state's energy security and resiliency needs.

Propane is an EPA certified alternative fuel and a federally certified emergency civil defense energy. When winter storms, natural disasters, or pandemics call for portable energy or back up energy generators, propane steps in to save the day. Whether it is a small outdoor restaurant heating an outdoor space, or a large hospital or school using propane to heat and as back power generation, propane is there to supply reliable clean energy.

We also suspect that several aspects of this bill would be pre-empted by federal regulations. To ensure the safety of our citizens, when there are electrical disruptions from winter storms, climate disasters, or cyber terrorism, it is essential that the state promote the energy infrastructure and transportation of sustainable, green, resilient energies such as propane.

For these reasons, we respectfully request that the committee vote No on HB 329.








Warm showers for the homeless.


During the pandemic, propane was the primary energy used to heat outdoor testing sites, including critical biomedical sites such as Lonza where workers were tested prior to entering the facility to conduct COVID research. Lonza is currently manufacturing the Moderna coronavirus vaccine. Propane was also used for handwashing stations and hot showers for the homeless during the pandemic, as well as a source of outdoor heating for businesses and testing sites throughout the state. **The pandemic is just one recent of example of how propane provides energy security and should be part of any resilient energy strategy.**

PAN AM RAILWAYS
1700 IRON HORSE PARK
NO. BILLERICA, MA 01862

Testimony Opposing Transportation House Bill 329 – Regulating the Storage of rail cars containing hazardous materials.

Dear Chairman Walsh, V. Chairman Gagne and members of the Transportation Committee:

My name is Cynthia Scarano and I am the Executive Vice President of Pan Am Railways. I would like to thank you for the opportunity to testify against House Bill 329 – regulating the storage of rail cars containing hazardous materials.

This bill is concerning to Pan Am and the rail industry for many reasons but the two I would like to focus on today are safety and sufficient energy supply in New Hampshire. I have worked in my position for 12 years. During the twelve years I have had numerous discussions and meetings with NH officials regarding necessary steps needed to be taken to ensure that sufficient propane supplies reach New Hampshire thereby meeting its heating and energy needs. Working closely with our propane customers we have been able to develop a system that utilizes storage in rail cars so that sufficient supplies are on hand during high demand times, such as cold snaps and severe storms.

If this Bill were to pass and be found enforceable, there is no question that the supply chain for propane into New Hampshire would be stressed. On average a propane car is loaded at a facility and three weeks later arrives on the Pan Am Railways network under the best of circumstances. If there were some sort of interruption – adverse weather, track issue, crew shortage and/or mechanical failure to name a few, then delivery could take four weeks or more. The way we have avoided these interruptions affecting household consumers is to have enough cars on our system to feed the storage facilities, and keep up with demand while more propane is making its way across the country. Last year Pan Am Railways shipped over 7,450 carloads of propane. If we are no longer allowed to place cars along our system for longer than 72 hours, awaiting the need for delivery into facilities, rail transit will no longer be able to keep up with demand.

Which brings me to the second major concern regarding this bill. Whether it is chlorine used in water treatment plants or propane used to heat homes, schools, hospitals and other facilities rail is the safest form of transportation. I have included a white paper published by the Association of American Railroads with my testimony that you can read at your leisure. Some of the points I would like to highlight though is the fact that more than 99.9% of rail hazmat shipments reach their destination without a release. Railroads, including ourselves, have FRA inspectors examine rail infrastructure regularly to ensure compliance with Federal Standards. Pan Am conducts

weekly inspections of every piece of track and yearly inspections utilizing ultra-sonic technology. Our employees participate in regular training. Pan Am has a rigorous drug and alcohol program. Employees are subject to random testing in which all employees understand Pan Am has zero tolerance for Drug and Alcohol use. Our safety department performs training classes and participates in yearly drills with first responders on preparation in the rare event of a rail accident.

Safety is our number one priority. House Bill 329 will reduce safety by requiring constant movement of hazardous materials in rail cars. The House Bill also while also brings about inconsistencies in regulations, causing confusion and possible incidents for our employees, the community, and our company. Forcing the shuffling of cars every 72 hours takes a safely stored car out onto the system for no other reason than to "Move it Around", so that it is not in violation. It is our opinion that House Bill 329 creates a risk in the shipment of hazardous materials that would otherwise not be there. We respectfully request you deny H.B. 329. I am happy to answer any questions you may have.

Freight Railroads Move Hazardous Materials Safely

From the chlorine used to purify drinking water to the chemicals used in fertilizers, railroads provide a safe solution for moving the hazardous materials (hazmat) essential to daily life. In fact, more than 99.99% of all hazmat moved by rail reaches its destination without a release caused by a train accident, making rail a responsible transportation choice.

Railroads recognize the responsibility that comes with moving hazmat and strive each day to safely and securely deliver the freight entrusted to them. Working with customers, suppliers, communities and federal regulators — like the U.S. Department of Transportation (USDOT), U.S. Department of Homeland Security (DHS) and U.S. Pipelines and Hazardous Materials Safety Administration (PHMSA) — railroads' approach to hazmat safety is both exacting and all-encompassing. These efforts include rigorous design standards for rail cars carrying hazmat, specialized mobile apps that equip first responders with critical safety information, and a software system jointly developed by the industry and the U.S. Federal Railroad Administration (FRA) to evaluate and determine the safest, most secure rail routes to move the materials.

These efforts — coupled with the rail industry's ongoing commitment to infrastructure investment, technology deployment, rigorous employee training, improved operating practices and community safety efforts — have lowered hazmat accident rates by 64% since 2000.

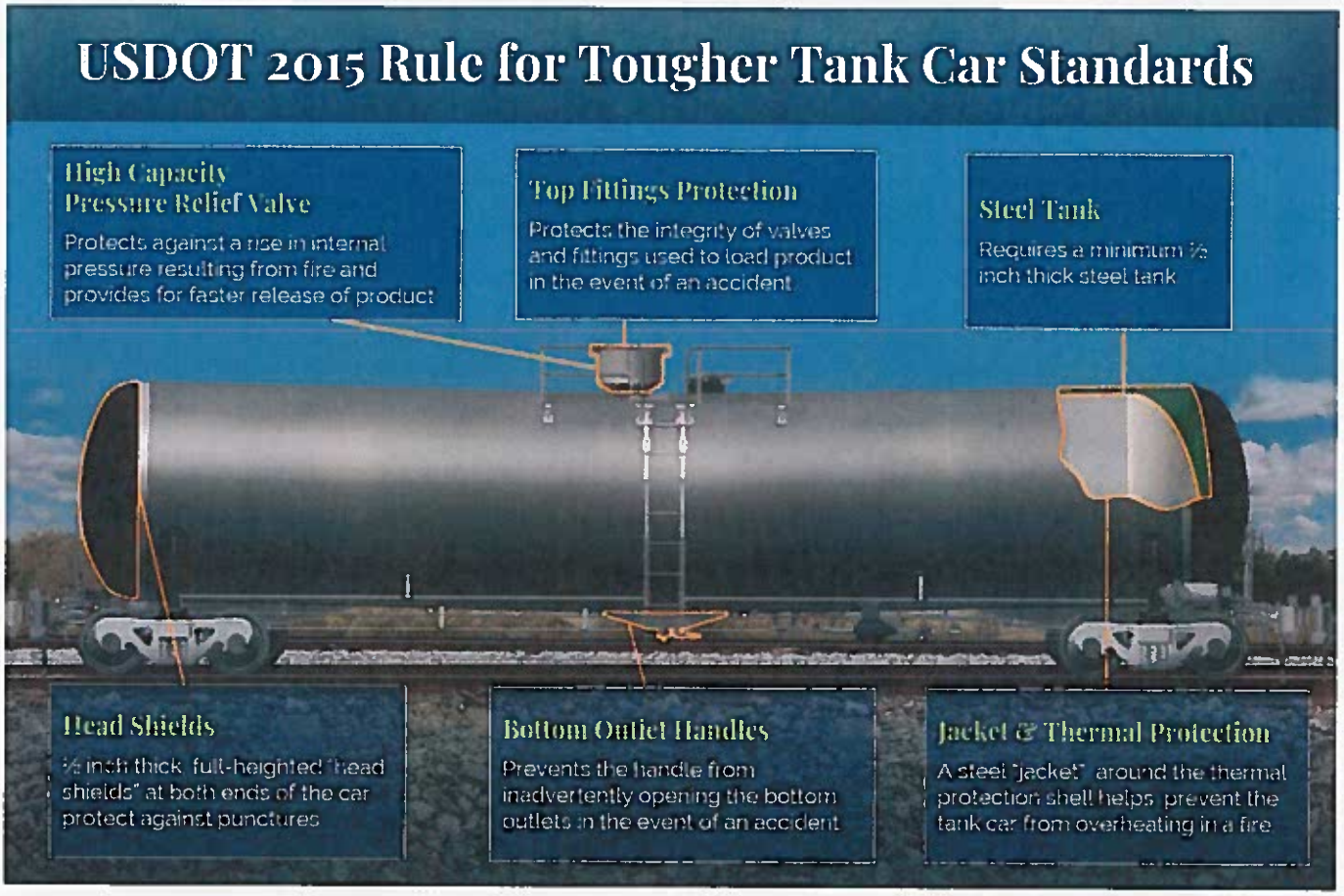
Key Takeaways

- More than 99.99% of rail hazmat shipments reach their destination without a release caused by a train accident.
- Hazmat safety is a shared responsibility, which is why railroads work closely with their customers, equipment suppliers, government agencies, rail labor and others to continually advance hazmat safety.
- Tens of billions of dollars in private investment to improve rail track and equipment reliability as well as develop and implement new safety-enhancing technologies have helped drive rail hazmat accident rates down 64% since 2000.
- Railroads support the USDOT's tougher tank car standards and the phase-out of older tank cars is underway.

Rail's Proactive Approach

America's freight railroads operate the safest rail network in the world. The industry's distinction as the most responsible way to move goods over land — particularly hazmat — is thanks to its consistent focus on continual improvement. While railroads' safety record stands on its own, the industry continues to work toward the ultimate goal of an accident-free future. Freight rail's approach includes:

- **Tech-Enabled Inspections:** The U.S. freight rail network is superior to other transportation modes in part because of sustained, robust investment in infrastructure, equipment and technology. These investments include powerful new inspection technologies that assess network health more accurately than ever before and improve maintenance planning.
- **Specialized Equipment:** North America's freight railroads transport most hazmat using a fleet of specialized rail tank cars. Thanks to industry advocacy, in 2015, USDOT released regulations requiring new, tougher tank car standards for certain types of hazmat, including crude oil. Railroads also proactively equip trains carrying hazmat with specialized equipment — distributed power and end-of-train devices — that provide more consistent braking, minimizing the potential for damage to rail cars in the event of an accident.
- **Government Oversight:** FRA inspectors examine rail infrastructure regularly to ensure compliance with federal safety standards. The FRA recently decided to allow railroads to use ultrasonic inspection technology, augmented with global positioning system (GPS) technology, to inspect track using specialized vehicles that don't need to stop during inspections. This continuous rail inspection technology will allow railroads to test rail more frequently; identify and repair internal rail flaws before conditions degrade safety; and reduce freight and passenger train delays associated with routine track testing.
- **Operational Modifications:** U.S. Class I railroads use the Rail Corridor Risk Management System (RCRMS), a joint initiative between railroads and government, to analyze and identify the safest and most secure routes for transporting highly hazardous materials. The model uses 27 risk factors — including hazmat volume, trip length and population density along the route — to assess the overall safety and security of rail routes.



Community Preparedness & Response

With operations across 49 states, America's freight railroads honor their responsibility to the communities they serve. This commitment is best demonstrated by their emphasis on preparedness and community engagement. Railroads work diligently to prepare communities in the rare event of a rail accident and support them during and after the incident. These efforts include:

- **First Responder Support:** U.S. freight railroads train tens of thousands of first responders throughout the country each year, many at the industry's Security and Emergency Response Training Center (SERTC). In response to COVID-19-related travel restrictions, SERTC recently launched a new virtual training platform to ensure first responders have continued access to this vital training.

- **Transparent Communications:** Railroads actively collaborate with local officials on emergency response plans in the rare event of an incident. Upon request, railroads also share information with state and local officials on the types of cargo moving though their communities to inform emergency response planning. In partnership with the International Association of Fire Chiefs, the industry developed the AskRail app, which provides first responders across the rail network immediate access to accurate, timely data about what type of hazmat a rail car is carrying and how to safely respond to an incident.

- **Emergency Response Teams:** Railroads have 24/7 emergency response teams to assist local officials. Railroads and maintain networks of on-call hazmat response contractors and environmental consultants to provide additional assistance.

- **Community Assistance:** Railroads provide services (e.g., lodging, food) to those displaced by rail hazmat accidents and work to make communities whole. Railroads will often establish assistance centers and claims teams to assess and meet the long term needs of displaced community members.

Propane TO THE RESCUE

In addition to protecting homes, hospitals, and critical infrastructure with backup generators, propane is the go-to energy source during emergencies.

Since WWII to present day

propane is used for portable mobile kitchens to feed our troops overseas.

Propane mobile kitchens

are set up across the US to feed first responders so they can do their jobs and rescue citizens following natural disasters.

Propane feeds our displaced citizens

evacuated or left without power following earthquakes, wildfires, and hurricanes. It is even used in shelters to heat up baby bottles.

In 1955, propane was federally certified

for emergency civil defense use in mass feeding, hospital use, and emergency stockpiling after propane tanks survived a nuclear testing blast and were still able to function.

Portable propane bbq bottles

supply citizens with the ability to cook food and boil water during power outages.

Propane fleets

can be used when gasoline and electricity is not available for mass evacuations and to power police cars, ambulances, and other first responder vehicles so they can continue to protect our citizens.

PGANE
Green Sustainable Energy

PROPANE GAS ASSOCIATION OF NEW ENGLAND
1024 Suncook Valley Hwy, C5
PO Box 1071
Epsom, NH 03234

888-445-1075

PGANE.ORG

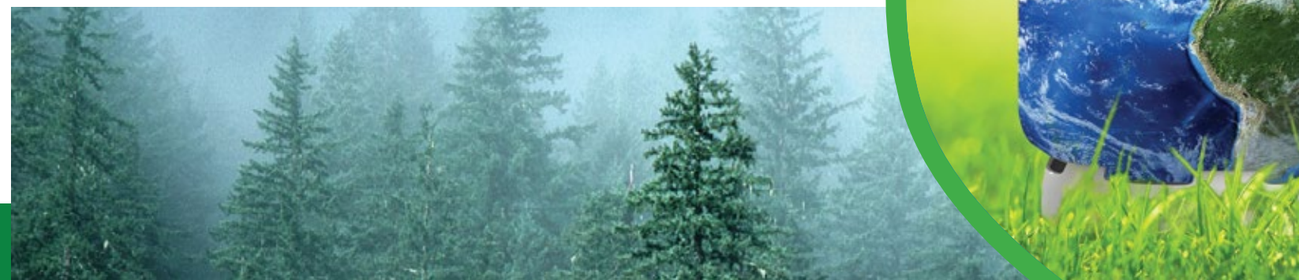
RENEWABLE. SECURE. PROPANE.

PGANE

Green Sustainable Energy

What's Inside?

- An EPA-approved clean alternative fuel
- Propane's recyclable origin and renewable future
- Off-grid, carbon-neutral heating and cooking technology
- Solutions for New England's grid reliability challenges
- Propane's role in energy security and cyber defense
- Eco-friendly backup power for solar and wind



Propane provides

RENEWABLE ENERGY

Propane promotes recycling.

Propane is a beneficial byproduct of natural gas. If not captured for later use in heating and power generation, it becomes wasted energy. Propane use is the EPA philosophy of “Reduce, Reuse, Recycle” in action.

Propane is a clean alternative fuel.

Because propane is nontoxic and ozone-safe, the EPA recognizes it as a clean alternative fuel under the 1990 Clean Air Act. Today, propane is becoming even cleaner thanks to research in renewable propane made from various bio sources.

Propane is NOT a significant source of carbon.

Propane appliances produce fewer carbon emissions than nearly every other energy source. In fact, propane is an environmentally responsible alternative to carbon-intensive wood burning. Classifying propane as renewable would allow New England to further its energy goals while reducing carbon emissions.

Propane is sustainable.

As a reliable source of energy, propane works in tandem with solar-powered net-zero homes. These homes use propane for carbon-neutral heating, cooking, and hot water in conjunction with solar panels, and propane generators can be added to keep the lights on when the sun stops shining.

Propane provides

ENERGY SECURITY

Propane is reliable.

During climate events like hurricanes, floods, and blizzards, energy supplies are strained and the electricity grid is at risk. Propane generators provide home and commercial backup power when the sun doesn't shine or the wind doesn't blow. In the event of price spikes and blackouts, hospitals and other critical infrastructure can switch over to propane.

Propane fleets provide backup emergency vehicles.

With increased climatic events come increased power outages. Propane fleet vehicles provide police, ambulances, and buses with a backup fuel that can be loaded from a propane truck without electricity. Propane vehicles reduce greenhouse gases and cost less to maintain.

Propane is less vulnerable to cyber-attack or EMP.

While cyber-security is a serious concern for New England’s electricity grid, propane systems are not connected to the grid and therefore virtually impenetrable to most hackers. Propane microgrids, already used in Europe, could be a solution for New England communities as well.

Propane is environmentally secure.

As the U.S. becomes increasingly dependent on renewable electricity, propane is an ideal backup power source to complement solar and wind technology. Propane is nontoxic, does not contaminate ground or seawater, and contains no ozone depleting chemicals.

PGANE

Green Sustainable Energy

February 12, 2021

TESTIMONY OF CHRISTOPHER J. WAGNER
Director of Compliance and Regulatory Affairs, AmeriGas Propane L.P.

BEFORE THE NEW HAMPSHIRE HOUSE OF REPRESENTATIVES COMMITTEE ON TRANSPORTATION

Concerning HB 329 - An Act Relative To Storage Of Rail Cars Containing Hazardous Materials

AmeriGas Propane L.P. is pleased to have the opportunity to offer its comments in opposition to **HB 329 - An Act Relative To Storage Of Rail Cars Containing Hazardous Materials.**

AmeriGas is the largest propane retailer in the United States, serving over 1.5 million customers in all fifty states from approximately 1,800 propane distribution locations. AmeriGas has 650 area offices with approximately 6,500 employees nationwide. In 2020, AmeriGas distributed approximately 1.1 billion gallons of propane with over 21.5 million being distributed in New Hampshire.

The State of New Hampshire and the surrounding New England states' supply needs are highly reliant on the transportation of LP Gas by rail. To meet the demands of New Hampshire customers AmeriGas must supplement our over-the-road transport of propane from neighboring states with in-excess of 9 million gallons shipped in AmeriGas railcars into or through New Hampshire to terminal loading facilities. Additional supply needs are met, in large part, by in state third party rail supplied facilities. Since over 70% of the total propane demand in the State of New Hampshire occurs between the months of October and March, rail inventory and effective staging of resources is critical.

Any restrictions or added regulations to rail transportation within the state could negatively impact the industry's ability to effectively service the residents of New Hampshire with this critical life sustaining commodity, with no obvious benefit to public safety. Imposing these restrictions on this critical supply chain resource increases risk of supply outages and increases the vulnerability of the supply chain during the coldest months of the year and inclement weather events; precisely when New Hampshire's propane customers need security of supply the most.

We oppose HB 329 as it would threaten the health, safety, and welfare of New Hampshire's citizens. We rely on propane railcars in New Hampshire as a primary means of supply for over 35,000 customers from our 25 in state distribution locations. Included in this customer base are critical public services and businesses.

Resiliency and energy security are of fundamental importance in protecting the critical infrastructure within the state, ranging from commercial and municipal needs such as backup

460 North Gulph Road • King of Prussia, PA 19406
610-308-3822
E-mail: Christopher.wagner@amerigas.com • www.amerigas.com

power generation, heat and hot water for hospitals to residential needs such as heat, boiling water and cooking food.

Utilizing rail cars reduces the number of trucks on our state highways, as one rail car is the equivalent of more than three tractor trailer transport vehicles. This reduces the burden of vehicles on our state roads and highways and lowers the risk of vehicle incidents. Rail transportation can also, often the most economical.

At times, there will be train delays due to winter storms that slow down rail traffic due to heavy snows, unforeseen natural disasters such as floods that may wash out rail bridges, or rail strikes in Canada that further disrupt logistics. For these reasons, railroads and rail customers have built in additional supply to ensure that they have a working inventory readily available. By doing so, the propane industry not only provides warm heating and hot water to New Hampshire's homes and businesses year-round, but it also protects the state's energy security and resiliency needs.

Propane is an EPA certified alternative fuel and a federally certified emergency civil defense energy. When winter storms, natural disasters, or pandemics call for portable energy or back up energy generators, propane steps in to save the day. Whether it is a small outdoor restaurant heating an outdoor space, or a large hospital or school using propane to heat and as back power generation, propane is there to supply reliable clean energy.

During the pandemic, propane was the primary energy used to heat outdoor COVID-19 testing sites. Propane was also used for handwashing stations and hot showers for the homeless during the pandemic and as a source of outdoor heating for businesses throughout the state. AmeriGas operates the only 20-pound propane cylinder exchange processing facility in the State of New Hampshire. This facility is the critical supply point for all of New England and has been critical in ensuring supply of small cylinders remain available in and around New Hampshire.

In addition to the critical health safety and welfare concerns, there may be several aspects of this bill that would be pre-empted by federal regulations.

To ensure the safety of our citizens, when there are electrical disruptions from winter storms, climate disasters, or cyber terrorism, it is essential that the state promote the energy infrastructure and transportation of sustainable, lower-carbon footprint, resilient energies such as propane.

For these reasons, we respectfully request that the committee vote No on HB 329.

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THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

Victoria F. Sheehan
Commissioner

William Cass, P.E.
Assistant Commissioner

February 10, 2021

The Honorable Thomas Walsh, Chairman
House Transportation Committee
Legislative Office Building, Room 203
Concord, NH 03301

RE: HB 329 - An Act Relative to Storage of Railroad Cars Containing Hazardous Materials

Dear Chairman Walsh:

The New Hampshire Department of Transportation (NHDOT) writes in opposition to HB 329, as introduced, which would regulate the storage of rail cars containing hazardous materials. NHDOT owns approximately 195 miles of active railroad corridors that are currently operated by four freight rail operators and two tourist excursion rail operators.

NHDOT opposes this bill as in most instances the regulation of railroads and property used for railroad purposes is governed exclusively by the federal government through the US Surface Transportation Board (STB) in accordance with 49 U.S.C. § 10501. As railroad operations are considered interstate commerce, any such state laws may therefore be federally preempted. The purpose of federal preemption is to prevent a patchwork of local regulations from unreasonably interfering with interstate commerce. For example, if rail cars are designated by the Federal Railroad Administration as "Stored In Transit" then regulations made by the state could be preempted by federal regulations as this is part of normal railroad operations.

NHDOT is also concerned with any enforcement responsibilities that would be incumbent upon the Bureau of Rail and Transit. The Bureau currently has minimal railroad staffing and would require additional staff in order to patrol over 400 miles of privately-owned and state-owned active railroad corridors.

NHDOT can certainly appreciate concerns regarding the storage of hazardous materials throughout the state, but with regard to rail cars storing such material, please be advised that railroad safety is overseen by the Federal Railroad Administration who periodically inspect any rail car that contain hazardous materials including those stored in New Hampshire.

Thank you for the opportunity to provide testimony on this bill. If you have any questions or need further information, please contact me at 271-1484 or by email at patrick.c.herlihy@dot.nh.gov.

Sincerely,

Patrick C. Herlihy
Director of Aeronautics, Rail and Transit

cc: Victoria Sheehan, Commissioner
William Cass, Assistant Commissioner
Christopher Waszczuk, Deputy Commissioner

Dennis J. Thompson
New Hampshire State Representative
Coos District #1

603-867-7536
Dennis.Thompson@leg.state.nh.us

Good Morning Mr. Chairman and members the committee. I am Representative Dennis Thompson from Stewartstown. I am a Republican and the Sponsor of HB329.

I have put forward this bill to control the passage and storage of Hazardous materials in the State on public and privately owned rail sidings throughout the State. I have submitted several pictures of rail cars stored on State owned tracks in North Stratford on Route #3. There are in excess of 100 cars on a two mile section of currently discontinued track leased to the New Hampshire Central Railroad. This track as shown in one of the pictures runs within 20 feet of Route #3 and each of these cars potentially holds 33,700 gallons of liquid propane. Many of these cars are stored within 50 feet of residents homes. Should an accident occur that involves the stored cars, the results could be catastrophic.

On the evening of July 5, 2013 a runaway train de-railed in Lac-Megantic, Quebec. The train was carrying crude oil, a product much less explosive than the products carried in many of the Hazardous materials cars traveling on, and stored on the rails in New Hampshire. The result of the derailment and resulting fire in Lac-Megantic was 47 deaths, over 2000 people displaced from their homes and the complete destruction of most of the downtown section of Lac-Megantic. Believe me I understand that this example of what could happen is extreme and highly unlikely to be repeated here in New Hampshire, but accidents do happen. Taking the actions proposed in HB329 can reduce the chances of this happening here.

HB329 requires that any car parked on the rails in New Hampshire that is not part of a gathering train and remaining for more than 72 hours be moved to a location at least 1500 feet from an occupied dwelling or a public highway. This bill provides a degree of safety for residents and travelers along rail lines in the State. Further the bill requires that in addition to the Placards indicating what is contained in these cars (Which without special training or a Hazardous placard manual) most people have no idea what they contain. HB329 requires that any tank cars standing on or stored on tracks in New Hampshire be Placarded as to whether the cars are full or empty.
(This could be accomplished with a simple colored sticker or cardboard sign that could be easily removed as the cars are removed from storage.)

Please understand that I am not, nor do I come forward with this bill as an expert on Railroad safety or an expert on Hazardous materials. What I am asserting is Common Sense, If you put Hazardous materials near Residential neighborhoods, and heavily

traveled Public roads eventually there will be a tragic accident. The attached exhibits will show that these hazards already exist in the Towns of North Stratford, and Columbia. I have contacted the Fire Chiefs in both North Stratford and Colebrook a neighboring Town which provides fire protection for the Town of Columbia, neither of them has been offered Hazardous materials training by the New Hampshire Central Railroad with respect to the hazards relative to the cars stored in their communities. I contacted the New Hampshire Fire Marshall's office and asked if they had training available for these communities and one of the assistant Fire Marshall's said that they have a part-time employee currently working on setting up Haz-mat programs training and that they are aware that the north country does not currently have a trained response team for such an event.

You will have also received a letter from Director Herlihy, Director of Aeronautics, Rail and Transit with respect to the Federal Railroad Safety Act and his Departments objection to HB329. With respect to the FRA (49 U.S.C. 20106) another section of the act, it states that in section 179.8 (B) and I quote. "Under the Federal Railroad Safety Act (49 U.S.C. 20106), administered by the Federal Railroad Administration (49 CFR parts 200-244) laws, regulations and orders related to railroad safety, including security, shall be nationally uniform to the extent practicable. **A State may adopt, or continue in force, a law, regulation, or order covering the same subject matter as a DOT regulation or order applicable to a railroad safety and security (including the requirements in this subpart) only when an additional or more stringent state law, regulation, or order is necessary to eliminate or reduce an essentially local safety hazard; is not incompatible with a law, regulation, or order of the United States Government; and does not unreasonably burden interstate commerce."**

Although I understand Director Herlihy's concerns that any enforcement responsibilities would be incumbent upon the Bureau of Rail and Transit to patrol over 400 miles of privately-owned and state-owned active railroad corridors with limited funds and personnel, I thought that it is what the Bureau was created for.

In closing I would like to suggest to the Committee that the Safety of our Constituents is our primary responsibility as Representatives. Thank you for your consideration of HB329.

Respectfully submitted,

Dennis J. Thompson
Republican Representative Coos #1

Archived: Monday, July 19, 2021 9:16:40 AM
From: Dennis Thompson
Sent: Thursday, February 11, 2021 1:34:38 PM
To: ~House Transportation Committee
Subject: HB329 additional pictures
Importance: Normal

Sent from Mail for Windows 10

Archived: Monday, July 19, 2021 9:16:40 AM
From: Dennis Thompson
Sent: Thursday, February 11, 2021 1:31:13 PM
To: ~House Transportation Committee
Subject: HB329
Importance: Normal
Attachments:
Letter in support of HB329.docx

Please see attached

Sent from Mail for Windows 10

Bill as Introduced

HB 329 - AS INTRODUCED

2021 SESSION

21-0416
08/06

HOUSE BILL ***329***

AN ACT relative to storage of rail cars containing hazardous materials.

SPONSORS: Rep. Thompson, Coos 1

COMMITTEE: Transportation

ANALYSIS

This bill regulates the storage of rail cars containing hazardous materials.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
21-0416
08/06

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to storage of rail cars containing hazardous materials.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Storage of Hazardous Materials in Rail Cars. Amend RSA 21-P by inserting after section 18 the following new section:

21-P:18-a Storage of Hazardous Materials in Rail Cars.

I. Storage of rail cars containing hazardous materials on state owned or privately owned rail lines or sidings shall be placarded with information concerning the current or previous contents of the rail car along with placarding that indicates whether the rail car is currently full or empty.

II. In no case shall rail cars that currently contain or previously contained hazardous materials be stored on rail lines within the state for more than 72 hours from time of arrival unless they are part of a gathering train scheduled for transit through the state or delivery to industrial clients within the state.

III. No rail car that currently contains or previously contained hazardous materials shall be stored within 1500 feet of an occupied dwelling or active public way.

2 Effective Date. This act shall take effect January 1, 2022.