

September 30, 2014

Re: Comments on Docket No. PHMSA-2012-0082 (HM-251) Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains

On behalf of the front line organizations representing citizens living near oil and gas wells and the railroad lines passing through our neighborhoods, we urge you to place an immediate halt to the legacy DOT-111 rail cars carrying volatile crude oil. The risks posed by these rolling hazards are not new; the National Transportation Safety Board has known for decades that the antiquated DOT-111 tank cars pose serious dangers for communities.¹

With the unprecedented expansion of transportation of flammable crude oil, our railways create an increasing risk to the safety of our communities, for hazardous pollution, and for the threat of tragedy. The dramatic increase in derailments involving high-hazard flammable trains (HHFT) has led to spills, explosions, fires, billions of dollars in damage, and even human deaths.

Unfortunately, the proposals from the US Department of Transportation (USDOT) merely nip around the edges of these risks, letting this very profitable industry off the hook from making necessary changes. For instance, USDOT exempts trains with fewer than twenty cars from their HHFT definition. Nor does adding one sixteenth of an inch of steel to the train head shield adequately address the danger. In fact, none of the proposed regulatory changes, including considerations of train routes, braking systems, or speed restrictions, create the safety levels necessary to effectively protect communities at risk.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) should require all trains carrying crude oil and other hazardous materials be placed in the highest risk category of shipments. The Federal Railroad Administration (FRA) is aware that the oil and gas industry deliberately mischaracterizes the contents of their crude oil railcars as Packing Group III material rather than Packing Group I hazardous material.² FRA and PHMSA reiterated their concerns related to the improper mischaracterization of crude oil shipments in three subsequent Safety Advisories.³

¹ National Transportation Safety Board, Safety Study, Transport of Hazardous Materials by Rail. Adopted May 16, 1991.

² See letter from the Federal Railroad Administration to Jack Gerard, American Petroleum Institute, July 29, 2013.

³ See Docket No. DOT-OST-2014-025, Docket No. PHMSA-2014-0049, 78 FR 48224, 78 FR 69745, and 79 FR 27370. See also <https://federalregister.gov/a/2014-10914>

PHMSA should also remove the exemption for rail shipments of crude oil from the disclosure requirements of the Emergency Planning and Community Right-to-Know Act (EPCRA). Regulators should audit the contents of rail shipments and carriers should clearly communicate emergency procedures and relevant risks to first responders and local residents, before posting this information on an easily accessible public website.

Currently, there is a veil of secrecy shrouding train routes and schedules that keeps communities in the dark about the flammable hazards travelling through our cities and neighborhoods and across our countryside. The exemption from EPCRA and mischaracterization of tank car contents underscores this problem. The current proposal to require notification to State Emergency Response Commissions only applies to domestically shipped Bakken crude in excess of one million gallons.⁴ However, the danger to our communities begins with the very first gallon regardless of origin. Keeping essential information from the public prevents us from making informed safety decisions.

Thank you for your consideration of our comments. Only placing an immediate ban on DOT-111 tank cars carrying crude oil will at least help ensure greater public safety and restore public confidence. The safe operations of rail cars are of critical importance to us, especially in the light of the Lac-Megantic tragedy.

Sincerely,

Athens County (OH) Fracking Action Network
Catskill Citizens for Safe Energy
Citizens Coalition for a Safe Community
Delaware Riverkeeper Network
Earthworks
Environmental Action
Green America
Idaho Concerned Area Residents for the Environment (ICARE)
The Shalom Center
Pennsylvania Alliance for Clean Water and Air

⁴ See Docket No. DOT-OST-2014-0067