



**League of California Cities Comments Regarding the U.S. Department of Transportation's
Pipeline and Hazardous Materials Safety Administration's
Notice of Proposed Rulemaking on *Enhanced Tank Car Standards and
Operational Controls for High-Hazard Flammable Trains*
(Docket No. PHMSA-2012-0082, HM-2510)**

The League of California Cities appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPRM), which includes new operational requirements for certain trains transporting a large volume of Class 3 flammable liquids and improvements to tank car standards, both designed to lessen the frequency and consequences of train accidents and incidents involving the transport of large volumes of flammable liquids. With the significant increase in the volumes of crude oil being shipped, and proposed to be shipped, throughout the country, the safety of the millions of people that live and work in close proximity to the railroad lines is at significant risk.

The League of California Cities is an association representing California's 482 cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. Our members are public agencies with public safety and emergency response responsibilities and employ first responders.

California and the Nation Are At Risk from the Transportation of Crude Oil by Rail

As an association representing government agencies responsible for local public safety, we believe that the rail transport system for crude oil and other Class 3 volatile substances needs to be improved to provide day-to-day safety on and near that rail system and to reduce the risk of catastrophic harm.

The data gathered by Pipeline and Hazardous Materials Safety Administration and Federal Railroad Administration from August 2013 to May 2014 confirms that the Bakken Crude currently being shipped across the country is significantly more volatile than more traditional crude oil. The average Bakken shipment travels over 1,000 miles to refineries in California and other locations. In the last 2 years, the volume of Bakken crude shipped has increased from 9500 rail car loads to 415,000 rail car loads, and continued high growth is expected. Much, if not all, of this crude is extracted through methods not known or not commercially used until recent years.

Given the volumes of Bakken crude oil and other Class 3 flammable liquids being shipped by rail, the large distances that these shipments travel, and the many towns and cities that the rail lines transect, it is vitally important to have a rail delivery system that safeguards the public from the significant risks of an accident or derailment.

In California, the rail system flows through all major metropolitan areas, bisects cities and communities, and crosses many habitat areas. Currently, in addition to existing oil shipments,

there are proposals to ship well over 200 rail car loads of crude on the Union Pacific main line that runs from the City of Roseville, through the Sacramento region, and into the San Francisco Bay Area. Some of this crude will head to refineries on the San Francisco Bay, and some will traverse the Bay Area going through Berkeley, Oakland, and other metropolitan areas along the central coast of California. Similar shipments are occurring in the Central Valley and Southern California, and more are expected there as well. This increasing transport of Bakken crude oil by rail should not be permitted to place the residents and businesses of California at an increased risk of catastrophic human and environmental harm.

As is well known, there have been a number of crude oil train incidents that have occurred within the last 18 months.

- Lac Mégantic, Quebec—On July 5, 2013, a train with 72 loaded tank cars of crude oil from North Dakota moving from Montreal, Quebec, to St. John, New Brunswick, stopped at Nantes, Quebec, at 11:00 pm. At about 1:00 AM, it appears the train began rolling down the descending grade toward the town of Lac-Mégantic, about 30 miles from the U.S. border. Near the center of town, 63 tank cars derailed, resulting in multiple explosions and subsequent fires. There were 47 fatalities and extensive damage to the town. 2,000 people were evacuated. The initial determination was that the braking force applied to the train was insufficient to hold it on the 1.2% grade and that the crude oil released was more volatile than expected.
- Gainford, Alberta—On October 19, 2013, nine tank cars of propane and four tank cars of crude oil from Canada derailed as a Canadian National train was entering a siding at 22 miles per hour. About 100 residents were evacuated. Three of the propane cars burned, but the tank cars carrying oil were pushed away and did not burn. No one was injured or killed. The cause of the derailment is under investigation.
- Aliceville, Alabama—On November 8, 2013, a train hauling 90 cars of crude oil from North Dakota to a refinery near Mobile, AL, derailed on a section of track through a wetland near Aliceville, AL. Thirty tank cars derailed and some dozen of these burned. No one was injured or killed. The derailment occurred on a shortline railroad's track that had been inspected a few days earlier. The train was travelling under the speed limit for this track. The cause of the derailment is under investigation.
- Casselton, North Dakota—On December 30, 2013, an eastbound BNSF Railway train hauling 106 tank cars of crude oil struck a westbound train carrying grain that shortly before had derailed onto the eastbound track. Some 34 cars from both trains derailed, including 20 cars carrying crude, which exploded and burned for over 24 hours. About 1,400 residents of Casselton were evacuated but no injuries were reported. The cause of the derailments and subsequent fire is under investigation.
- Plaster Rock, New Brunswick—On January 7, 2014, 17 cars of a mixed train hauling crude oil, propane, and other goods derailed likely due to a sudden wheel or axle failure. Five tank cars carrying crude oil caught fire and exploded. The train reportedly was

delivering crude from Manitoba and Alberta to the Irving Oil refinery in Saint John, New Brunswick. About 45 homes were evacuated but no injuries were reported.

- Philadelphia, Pennsylvania—On January 20, 2014, 7 cars of a 101-car CSX train, including 6 carrying crude oil, derailed on a bridge over the Schuylkill River. No injuries and no leakage were reported, but press photographs showed two cars, one a tanker, leaning over the river.
- Vandergrift, Pennsylvania—On February 13, 2014, 21 tank cars of a 120-car train derailed outside Pittsburgh. Nineteen of the derailed cars were carrying crude oil from western Canada, and four of them released product. There was no fire or injuries.
- Lynchburg, Virginia—On April 30, 2014, 15 cars in a crude oil train derailed in the downtown area of this city. Three cars caught fire, and some cars derailed into a river along the tracks. The immediate area surrounding the derailment was evacuated. No injuries were reported.

These recent incidents only reinforce the lesson that local governments have learned over the last 100 years: prevention is key to reducing the costs of disasters. Today, we routinely require safety standards in building construction to address new hazards and to incorporate improved building materials and techniques that were unknown just a generation ago. We also safeguard air quality, water quality, and habitat to help conserve our natural and build environments for today and for the future. Of particular relevance, in light the recent Napa/American Canyon Earthquake¹ (which was directly in the area of railroad operations) are the earthquake safety requirements incorporated into new building standards; these standards have significantly reduced injuries and property damage in earthquake prone areas. The fire prevention standards that have been adopted for large buildings and for residential homes are yet another example of the benefits of prevention. These safety standards have significantly reduced fires overall, and have reduced the impact of fires that do occur. Both earthquake and fire safety standards have significantly reduced the loss of life and the financial and environmental impacts of such catastrophic events.

With the enormous increase in rail shipments of crude oil, we believe the same types of enhanced safety requirements are necessary to fulfill the duty to safeguard the public's safety. Prevention is less expensive than the cost of responding to emergency events and the damage to people and places.

Recommendations

We urge the Department of Transportation to adopt the most safety-oriented alternatives in the NPRM and also to consider adding requirements or incentives for companies that would require removal of a significant amount of the volatile elements, such as flammable natural gas liquids from crude oil before it is loaded into rail cars for transport.

¹ Another potential severe earthquake in the Napa area could have a direct negative impact on this alignment including tracks, signals, and bridges.

We join in the suggestions made to Secretary Foxx on July 1, 2014, by Congress Members Doris Matsui, George Miller, Mike Thompson, and John Garamendi, a copy of which is attached. A requirement to remove volatiles through stabilization or other processes prior to shipment, in conjunction with improved rail car requirements, improved rail lines, and the other safety measures proposed would greatly enhance public safety and reduce the risks of catastrophic incidents.

Specifically, we have the following recommendations:

Provide more information to first responders: The NPRM proposes a robust and verified program for classification and characterization, with oversight to assure that materials are appropriately handled. We support such a program as a reasonable and proper safety precaution. A pre-shipment program implemented in this manner would increase the safety of the supply chain and provide great public benefit with little overall cost. The program would help ensure that flammable and volatile liquids are shipped in Class 3 tank cars that have the appropriate safety features, and would assist first responders with a better understanding of the properties of the liquids being shipped – information that is critical in the event of a derailment or a spill. We further propose that the classification and characterization of these liquids be included in the information that is made available to first responders during emergencies and on a real-time basis.

Provide training and notification to emergency response providers: California cities provide first responder emergency response in their communities and are required to respond to greater and more varied types of risks. Consequently, cities need adequate training and equipment, advance information in order to plan and prepare for emergencies, and real-time information when an emergency occurs. Under the current system, local emergency workers often must respond without the key information that they need. In addition, local governments are often without any ability to increase funding to provide for adequate response capabilities, including the full costs of training and equipment, and the costs of emergency response, cleanup, and recovery. Accordingly, we urge the adoption of regulations that provide funding for training and equipment, integration of manifest and shipment information in to the emergency response system, and real-time information during emergencies.

California, like many other states, integrates its emergency operations with the federal National Incident Management System. At the state level, the Office of Emergency Services works with regional and then county and city emergency response agencies so that local and regional entities can coordinate and plan for emergencies, and so that the local agencies have the real-time information they need to respond. As an example, Pacific Gas & Electric (PG&E) now provides a direct log in to its emergency systems, including the locations and sizes of its gas lines, to facilitate emergency response. This system has provided firefighters working to contain wildfires with critical real-time PG&E gas system information. A similar system for rail transport would greatly enhance emergency response to derailments and other train accidents.

Accordingly, we urge the adoption of regulations to fund, train, equip, and fully-inform emergency responders including:

- Fully-funded regular training programs that cover the cost of training, including backfill employee costs, to ensure that first responders are trained, and remain trained, on up-to-date procedures to address the unique risks posed by these shipments.
- Routine information on Class 3 train shipments upon request to provide information for planning and training.
- Coordinated emergency response plans and programs that include and involve state, regional, and local emergency responders. The regulations should include requirements for two-way coordination with industry emergency response at the state and regional level. Most importantly, these plans should provide for the obligation to pay for recovery, including all required clean-up.
- Real-time information available to local fire and emergency personnel so that first responders can have the necessary information of the contents of rail shipments and their classifications and characterizations at the time it is necessary to make first response decisions.
- Require comprehensive Oil Spill Response Plans (OSRPs) for every type of train and every rail line that will transport more than 3,500 gallons of Class 3 liquids per train per month, and require that rail operators coordinate their oil spill response plan with state plans. For instance, in California, there are regional OSRPs that are coordinated through the state. Railroads' OSRPs should also be coordinated and consistent with state and regional plans.

Use all available data to assess the risk and consequences of crude rail car accidents: The proposed rule estimates the risk of high consequence accidents, such as the devastating and fatal Lac Megantic, Quebec accident, using accident data across all commodities transported by rail. It omits from its analysis the numerous crude rail accidents that have occurred in 2014 as well as all crude rail accidents that have occurred in Canada. The proposed rule also fails to address the potential high cost damages of tar sands spills into waterways, and that high consequence events have resulted in tax payers footing the bill for clean-up. As a result of these omissions, DOT may underestimate the risks of and damages from high consequence events, thereby downplaying the benefits of the most stringent safety standards.

Mandate speed limits in all areas: Speed clearly increases the risk of an accident and of a derailment. Accordingly, we urge the adoption of a maximum speed limit of 40 miles per hour in all areas for all transport of Class 3 flammable liquids.²

A brief review of a map of the nation's high threat urban areas quickly highlights that the NPRM's option to limit the 40 mile per hour speed limit to just those high threat urban areas should be rejected in favor of a nation-wide limit. For example, the "Sacramento Area" high threat urban area covers only half of the City of Davis, stopping just short of the downtown area.

² It is our understanding that there would be no significant impact to passenger rail and other intermodal rail services by reason of a nation-wide speed limit for rail transport of Class 3 flammable liquids.

Rail cars directly run through downtown Davis, traversing a rail line curve that has been a safety concern for many years. The Sacramento Area high threat urban area also excludes the University of California at Davis, a research and learning institute with an average daily population of approximately 30,000 students located immediately adjacent to the rail line.

All areas of the nation deserve protection ~~from~~ afforded by the same safety standards granted now to only certain areas. The NPRM's option to limit the 40 mile per hour speed limit to areas with a population of 100,000 or more arbitrarily excludes communities entitled to a common level of protection. Throughout the rail routes in California, there are numerous at grade crossings or other points where the risk of accidents are high. These areas do not solely exist in urban areas with a population of over 100,000. Appropriate nation-wide speed limits for the transport of Class 3 flammable liquids will greatly enhance safety at a reasonable cost.

Study the risks of multi-car trains: We call for more study to ascertain the relative risks from trains transporting 20 or more Class 3 tank cars of crude oil or more compared to trains carrying fewer cars. We would recommend that any safety measures indicated by such studies then be adopted into regulation.

Quickly phase-out unsafe tank cars: Require that retrofitted Class 3 tank cars meet the same safety standard as new cars and/or require that tank cars not meeting new safety standards be phased out as expeditiously as possible. To the extent that tank cars that do not meet the new safety standards continue to operate at all, however briefly, we urge that they only be used on low risk routes outside of populated and habitat-sensitive areas.

Require enhanced tank car features: In the interests of public safety, we support the adoption of NPRM Option 1 which would require that Class 3 tank cars have 9/16 inch steel, electronically controlled pneumatic brakes, and rollover protection. The marginal cost of these features would be recouped through the additional safety benefits, reduction in accidents, and reduction in derailments. This tank car type would experience fewer punctures, fires and explosions, and fewer releases of hazardous and flammable liquids. Moreover, the Option 1 measures are simply necessary to make the crude oil shipments safe; to the extent they increase the cost of shipping such crude oil, they only ensure that the costs of shipment reflect the real cost to make such shipments safe.

Regulate the transport and storage of crude on railroad sidings: We urge the adoption of regulations that prohibit the storage of Class 3 tank cars on railroad sidings in urban areas, except in unusual circumstances, and even then there should be specific time limits. Siding storage in such areas poses a high risk to the neighboring residents and businesses. Unattended trains carrying flammable materials left to sit for days or weeks on sidings pose an unacceptable risk to harm to the public. Tankers with Class 3 materials should be held in yards with acceptable security measures. To the extent that even limited, unusual circumstance, storage of Class 3 tank cars is allowed it should be required to include enhanced safety including monitoring and notice to the local agency public safety and emergency services.

Conclusion

The League of California Cities appreciates the opportunity to comment on the Notice of Proposed Rulemaking. California cities are committed to maintaining a safe environment in which our citizens and work and live. With the submission of these comments, we request that the Administration continue its long-standing commitment to safety.

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