

## **RAIL TANK CAR ISSUE SUMMARY & ACTION REQUEST**

### **ISSUE SUMMARY:**

In response to the findings stemming from the National Transportation Safety Board's (NTSB) investigation of a June 2009 Canadian National Railway (CN) freight train derailment outside of Rockford, Illinois, the Village of Barrington and the Illinois-based TRAC Coalition jointly filed a petition on April 3, 2012 with the Pipelines and Hazardous Materials Safety Administration (PHMSA) asking that it promulgate rules that will make the fleet of new and existing tank cars that carry ethanol and crude oil by rail in North America more crashworthy in derailments and accidents. **PHMSA released its notice of proposed rulemaking on September 6, 2013 and is seeking input from local governments by November 5, 2013.**

The 2009 accident investigated by the NTSB involved a train containing 74 cars of ethanol that derailed after the rail bed underneath the train had washed away. One person was killed and nine others injured when several of the derailed tank cars split open and started a massive fire that took over 24 hours to burn itself out. Since 1991, the tank cars involved in the accident – DOT-111 tank cars – have been known by federal regulators and the freight rail industry to have high failure rates in accidents because they puncture easily.

The more recent July 6, 2013 catastrophic derailment of a train carrying 72 tank cars of crude oil in Lac-Mégantic, Canada that caused 47 deaths also involved the defective DOT-111 tank cars. **With the exponential growth of this dangerous hazmat traveling by rail over the last five years, it is clear that there is a growing potential for catastrophic derailments in communities all across North America.** In fact, the problems with this defective tank car is garnering national media attention, including this September 5, 2013 "NBC Nightly News with Brian Williams" piece that provides an excellent overview of the problem:  
<http://investigations.nbcnews.com/news/2013/09/05/20343288-danger-on-the-tracks-unsafe-rail-cars-carry-oil-through-us-towns?lite>

In response to the Rockford derailment, industry convened a working group made up of the Association of American Railroads (AAR), freight railroads, and shippers to set manufacturing standards for new cars and asked PHMSA to adopt those standards in 2011. However, the industry request explicitly asked that the existing fleet of tank cars not be retrofitted to make them safer due to the cost of a retrofit program. The AAR calculated that a retrofit of a tank car would cost \$15,000, but with an average life span of over 30 years for the existing fleet, that amounts to less than \$500 a year.

Backed by NTSB expertise, the April 3, 2012 petition by Barrington & the Illinois TRAC Coalition made the case that improved construction standards for only newly manufactured tank cars is not sufficient for protecting public safety. **As the NTSB experts recognized, while the improved AAR standards would make new cars safer than the existing cars, communities would be no safer if old and new tank cars are comingled when these tank cars derail.** With an eight-year average age for the existing tank car fleet, failure to require a retrofit program would allow tank cars that are filled with ethanol and crude oil – and known to be dangerous – to roll freely through American communities for the next three decades.

This issue goes far beyond the daily challenges of dealing with freight rail operations in our communities. According to Federal Railroad Administration safety statistics, between 2000 and 2011 there has been – on average – a reportable freight derailment in this country over five times every day. Additionally, the derailment in Lac-Mégantic has already been ball-parked at over \$200 million to fund the environmental

remediation and clean-up costs alone. Since that sum far surpasses the liability insurance cap of the involved railroad, it has entered bankruptcy proceedings. Given inadequate insurance protection across the rail industry, it is unclear as to who will be footing the bill when it comes to paying the catastrophic costs associated with a major tank car derailment. For these reasons, it is way past due for federal regulators to prioritize the concerns of local governments to remedy the known safety flaws with the DOT-111 tank car.

**ACTION REQUEST OF LOCAL GOVERNMENTS:**

***It is vital that local governments weigh in on this important issue prior to the November 5, 2013 comment deadline.*** To that end, a sample resolution is attached that local units of government can adopt and forward to PHMSA to indicate their support for the rail safety changes detailed in this summary and in this rulemaking document:

[https://www.federalregister.gov/articles/2013/09/06/2013-21621/hazardous-materials-rail-petitions-and-recommendations-to-improve-the-safety-of-railroad-tank-car?utm\\_campaign=subscription+mailing+list&utm\\_medium=email&utm\\_source=federalregister.gov](https://www.federalregister.gov/articles/2013/09/06/2013-21621/hazardous-materials-rail-petitions-and-recommendations-to-improve-the-safety-of-railroad-tank-car?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov)

***Please act expeditiously to pass this resolution.*** Once adopted, a copy of your government's resolution should be submitted in one of three ways:

- Through the Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Via Fax: 1-202-493-2251.
- By mail: Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE., Washington, DC 20590.

**Instructions:** All submissions must include the agency name and docket number for this notice (as shown in the model resolution) at the beginning of the comment. To avoid duplication, please use only one of the three methods of delivery.

Any questions you may have on this matter can be directed to [FightRailCongestion@gmail.com](mailto:FightRailCongestion@gmail.com). Thank you!