

Great Lakes Basin Railroad will handle Bakken & other crude oils. The only question is “how much?”

7 Hidden Dangers Buried in Federal Tank Car Rules

By Patti Goldman, Managing Attorney, Earth Justice

May 2015 brought us the long-awaited tank car rule—the Department of Transportation’s response to the spate of horrific explosions of trains carrying crude oil. Less than a week later, another train derailed, spilled oil and exploded in North Dakota, the fifth such disaster that year.

So will the new rules prevent more disasters on the rails? Unfortunately, the answer is a resounding no. While the new rules establish stronger standards for newly built tank cars, they set weaker standards for retrofitting existing tank cars. And DOT is allowing these hazardous tank cars to continue shipping explosive crude for almost a decade.

When released, DOT estimated that 15 rail accidents with oil spills and fires could happen every year with the existing fleet, plus a disaster every couple of years along the magnitude of Lac Mégantic, which incinerated 47 people and an entire downtown in 2013.

The rule does not even require railroads to begin phasing out the most dangerous tank cars until 2018. These risks remain until the hazardous tank cars are removed from use.

But that’s not all. Beyond the surface of the rule lie seven other hidden risks.

1. Substandard Tank Cars Will Carry Explosive Crude Oil for Almost a Decade. While news accounts and agency statements gave the impression that substandard tank cars for Bakken crude oil will be off the rails soon, that is not the case. Bakken crude can continue to be shipped in hazardous tank cars for 5-8 more years.

2. The New Tank Car Standards Do Not Apply to Every Oil Tank Car. The tank car rule has a huge loophole: It applies only to extremely long trains carrying crude or ethanol, specifically a continuous block of 20 or more tank cars or a train with 35 loaded tank cars, which can carry approximately 1 million gallons of oil. Canada, in contrast, has applied its new tank car standards to every single tank car, and the National

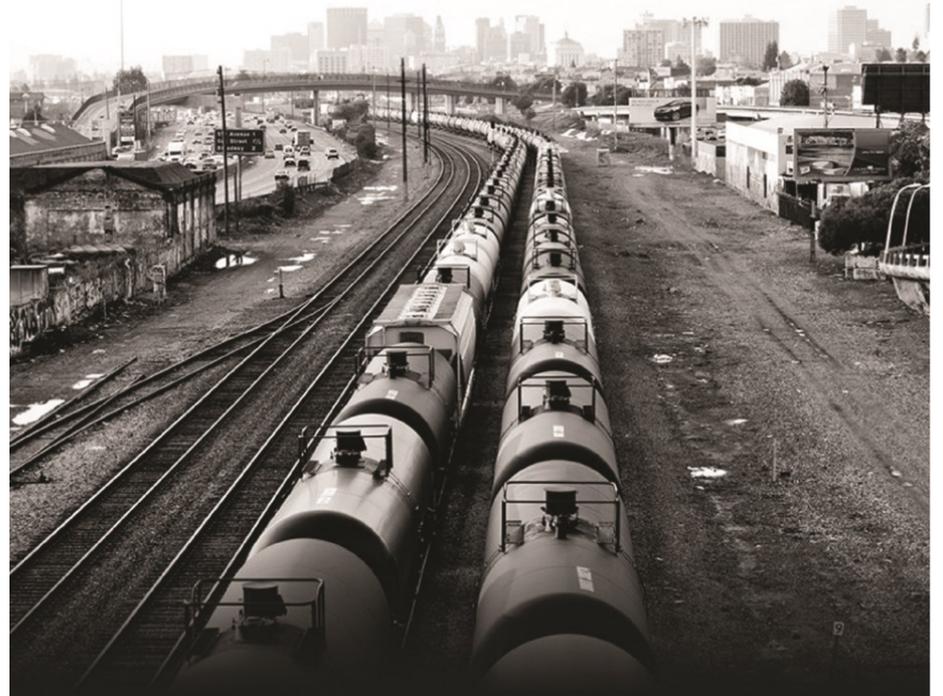
Transportation Safety Board recommends that the new U.S. standards apply to even a single tank car carrying hazardous flammable liquids.

3. The Oil Industry Will Add Nearly 7000 New Tank Cars Before Old Ones Are Taken Off the Rails. DOT is allowing the industry to build nearly 7000 new tank cars in 2016 to grow the crude-by-rail fleet rather than replace the hazardous tank cars.

4. Oil Trains Will Not Slow Down In Populated Areas. DOT has codified the speed limits that the railroads have voluntarily put into place for long crude-by-rail trains—a 50 m.p.h. speed limit everywhere and a 40 mph speed limit in high-threat urban areas like New York City, Atlanta and LA. These speed limits apply only to a few dozen cities along only about seven percent of the nation’s track. Oil trains will continue to travel at high, risky speeds through other densely populated urban areas, rural communities, and alongside drinking water supplies, fishing streams, schools and national parks, even though the new tank cars can still puncture at 12.3 m.p.h., and the retrofitted cars can puncture at 9.6 m.p.h.

5. Emergency Responders Have to Jump Hurdles to Get Information About These Trains. The rule eliminates mandatory disclosures to state emergency response agencies concerning the number and frequency of long trains carrying Bakken crude through each county in the state, along with basic emergency response information. The affirmative disclosures were put in place a year ago under an emergency order to help prepare emergency responders for rail disasters.

6. The New Rule Keeps the Public in the Dark. The rule takes a step back from letting the public know how many trains loaded with hazardous crude are coming through their communities. Under the May 2014 emergency order, the public obtained access to the train route and emergency preparedness information



in most states under state public records laws, but DOT has cut off that access in response to the railroads plea for secrecy.

7. DOT Underestimates the Harm from Oil Train Disasters.

To determine whether new tank car standards, retrofits, speed limits and other safety measures are cost-justified, DOT estimates the amount of harm likely to occur from oil train disasters. But in doing so, it uses outdated data that doesn’t reflect current conditions. For example, the agency is using oil spill data from rail accidents from 2006-2013, even though the crude-by-rail surge began well into that period, more oil spilled in 2013 than in 1975-2012 combined, and 2014 and 2015, to date, have added nine more accidents and huge volumes of oil spilled.

DOT appropriately recognizes that catastrophes like Lac Mégantic or worse could happen given the volume and hazards of oil train traffic and the defective tank cars used to transport crude, but it underestimates the likelihood of such catastrophes by using the low end of estimates.

It also underestimates the harm from such a disaster by scaling down the costs from the recent \$2.7 billion for Lac Mégantic on the assumption that speed limits will lessen the accident risks, even though the Lac Mégantic train was not traveling at any

speed; it rolled down a hill and gained tremendous speed in a short period of time. It uses these reduced estimates, despite recognizing that “the possibility of a single event that may exceed Lac Mégantic in total cost by an order of magnitude or more” and that “the true cost to society from crude oil spills may be 50 percent or even double, the agency’s central estimate.”

Communities across the country are lying vulnerable to an oil train crashing and exploding in their backyards. They are counting on the federal government to get hazardous tank cars off the rails, to reduce speed limits to prevent oil spills when trains crash, and to ensure they and their firefighters have the information they need to protect themselves if the unthinkable should happen. They deserve better than this pitiful safety rule.

Patti is a managing attorney of the Northwest regional office in Seattle, where she works to fight efforts to turn the Pacific Northwest into a fossil fuel export hub. She also leads Earthjustice’s pesticide work and efforts to preserve access to the courts and legal remedies. Her litigation experience includes notable successes in safeguarding the region’s old-growth forests, restoring Pacific salmon, and more. You can follow Earth Justice at:

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Why Great Lakes Basin Rail: News & Views?

This newspaper was created by few concerned citizens and evolved into many people working together to educate and inform the public. If you have concerns or comments about GLBT, please file comments with the Surface Transportation board. Please see page 3 for more information about that process. After April’s public “scope” hearings in impacted communities, it became obvious that media reports did not accurately convey the overwhelming negative public reactions.

Virtually every media report misrepresented those speaking at the meetings as “angry”, “excited”, “emotional” or somehow agitated. GLBT’s managing partner Frank Patton was, without exception, quoted as being “saddened” that people express objections. This is not objective reporting. Patton is given a clear and concise platform to comment on and address citizen concerns with vague and meaningless statements. Those expressing opposition believe their concerns are misrepresented as selfish and hypocritical. Legitimate and detailed factual positions are misrepresented as “Not in my backyard! comments.

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We are assessing the need for additional publications after the comment window at STB’s Environmental Impact Statement closes on June 15, 2016. Please contact the publisher above if you have any more information, comments, updates, or documents to share about GLBT.

We will need financial contributions to publish future issues of GLBRN&V. If you can help carry this message: *Stop Great Lakes Basin Transportation*, please contact us via email addresses or the phone numbers above.