

AGENDA ITEM SUMMARY

City Council

December 3, 2013

STAFF

Dan Weinheimer, Policy & Project Manager
Pamela Weir, Graduate Management Assistant

SUBJECT

Resolution 2013-102 Supporting the Retrofit of Existing DOT-111 Rail Tank Cars That Transport Packing Groups I and II Hazmat Before the Pipelines and Hazardous Materials Safety Administration.

EXECUTIVE SUMMARY

The purpose of this item is to allow City Council to provide input to a federal Department of Transportation rulemaking. Passage of the underlying resolution would indicate the Fort Collins City Council support of the National Transportation Safety Board recommendation requiring railroads retrofit tank cars to address known safety defects and to provide local governments more knowledge of the hazardous materials being transported through their communities.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution.

BACKGROUND / DISCUSSION

High-profile train derailments in Canada have demonstrated a need to improve the notice provided to local government of the materials being transported and to address design defects in the main rail car used to transport hazardous materials.

The Village of Barrington, IL and the Illinois-based TRAC Coalition jointly filed a petition on April 3, 2012 with the Department of Transportation's (DOT) Pipelines and Hazardous Materials Safety Administration (PHMSA) asking that agency to promulgate safety rules for new and existing DOT Specification 111 tank cars. These tanker cars are primarily use to carry ethanol and crude oil.

The National Transportation Safety Board's (NTSB) investigation of a June 2009 Canadian National Railway (CN) freight train accident outside of Rockford, Illinois, found that the train derailment caused many of the 74 DOT-111 cars of ethanol to split open and started a massive fire, killing one person and injuring nine others. The more recent July 6, 2013 catastrophic derailment of a train carrying 72 tank cars of crude oil in Lac-Megantic, Canada that caused 47 deaths also involved the DOT-111 tank cars.

Since 1991, federal regulators have known that DOT-111 tank cars have high failure rates in accidents and puncture easily. Today, production and transportation of oil is on the rise in the United States and DOT-111 cars make up 69 percent of the current American rail tank car fleet. In 2011 the federal government adopted upgraded safety standards for newly manufactured DOT-111 tank cars requiring thicker steel shells, improved valve coverings, and end shields to prevent punctures. According to the Association of American Railroads (AAR), about 25 percent of the cars that carry crude oil now meet the higher standards. The Renewable Fuels Association says industry would prefer to replace older cars by attrition. However, these cars can have a life span of over 30 years, meaning that trains would still carry the defective DOT-111 cars for decades, making the limited safety upgrades ineffective.

PHMSA is now considering revisions to the Hazardous Materials Regulations based on petitions received from cities, railroad associations, regulated fuel and chemical organizations, and NTSB recommendations and is seeking input from local governments regarding its proposed rulemaking. In short, the petition calls for PHMSA to adopt AAR standards for DOT-111 tank cars and mandate retrofitted safety upgrades to all DOT-111 to meet these new safety standards.

In addition, the petition requests PHMSA to adopt the NTSB recommendation that railroads be required to immediately provide accurate, real-time information regarding the identity and location of hazardous materials on a train to emergency responders in the event of an accident or derailment. Currently, this information is stored in hard-copy with the train engineer and is often destroyed or lost in an accident or derailment. The petition asks PHMSA to move forward with implementing its Hazardous Materials Automated Cargo Communications for Efficient and Safe Shipments (HM-ACCESS) and enforce the regulations stemming from the initiative with a system of random audits to promote compliance.

Trains carrying hazardous materials including crude oil and ethanol regularly travel through Fort Collins. The likelihood of a derailment in Fort Collins may be low, but the trains travel in close proximity to high-density population centers in the community.

PHMSA released its notice of proposed rulemaking on September 6, 2013 and is seeking input from local governments until December 5, 2013. Upon adoption, the Resolution will be submitted to the Federal Rulemaking Portal to assure the Fort Collins City Council comments are included in the rulemaking.

FINANCIAL / ECONOMIC IMPACT

Adoption of this Resolution is not expected to have a financial impact to the City.

ENVIRONMENTAL IMPACTS

While unlikely in Fort Collins, a train derailment could have catastrophic consequences. Older DOT-111 tank cars have split open upon derailment causing great environmental impact. The NTSB recommendation supported by this Resolution would make rail tank cars safer sooner by requiring retrofits rather than relying on what could be decades long phasing out of the older tank cars.

RESOLUTION 2013-102
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SUPPORTING THE RETROFIT OF EXISTING DOT-111 RAIL TANK CARS
THAT TRANSPORT PACKING GROUPS I AND II HAZMAT
BEFORE THE PIPELINES AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

WHEREAS, rail freight operations impact thousands of villages, towns, cities and counties across all regions of the United States of America; and

WHEREAS, safe rail operations are of critical interest to local units of government based on: (1) the need to prevent catastrophic accidents like the one that occurred in Lac-Megantic, Canada in July 2013; (2) the responsibility local governments have to provide emergency response units to manage the impact of rail accidents and derailments in communities across the country; and (3) the significant costs associated with clean-up, environmental remediation, medical expenses, other personal injury damages or wrongful death claims for community residents that have the potential to surpass the rail industry's ability to pay for them; and

WHEREAS, ethanol and crude oil are a large and exponentially growing segment of hazardous materials being shipped across the nation via freight rail, which will continue to be a preferred transport mode of choice for this hazmat; and

WHEREAS, since 1991, it has been known to industry and federal regulators that there are safety-related defects in the DOT-111 tank car that serves as the primary tank car used in the shipping of these hazardous flammable materials via freight rail; and

WHEREAS, the federal Pipelines and Hazardous Materials Safety Administration (PHMSA) regulates the safe transport of hazardous materials by railroads in the United States; and

WHEREAS, the business decisions of railroad companies and hazardous material shippers impact the safety, environment, and emergency response system in the communities in which the freight railroads traverse, but state and local governments have no ability to regulate railroad operations; and

WHEREAS, industry has failed to act in the last two decades to correct the known defects in DOT-111 tank cars, and has waited until 2011 to seek government approval to upgrade safety standards for newly manufactured DOT-111 tank cars; and

WHEREAS, a tank car expert from the National Transportation Safety Board testified in 2012 that a retrofit of existing tank cars is necessary because co-mingling existing unsafe DOT-111 tank cars with newly manufactured ones "does nothing to improve the safety in an accident"; and

WHEREAS, the petition for rulemaking submitted to PHMSA on April 3, 2012 by Barrington, Illinois and the Illinois TRAC Coalition reflects the point of view of local

governments, which is supported by recommendations of the National Transportation Safety Board, that changes are needed in federal regulations and/or law to better protect public safety relative to DOT-111 tank car safety and train consist dissemination; and

WHEREAS, the April 3, 2012 petition provides a compelling rationale for making long overdue changes in safe rail operations vis-a-vis retrofitting existing DOT-111 tank cars; and

WHEREAS, the April 3, 2012 petition demonstrates that the cost of a DOT-111 tank car fleet retrofit for existing cars would be of nominal expense over the remaining average thirty-year lifespan for the existing fleet, and

WHEREAS, PHMSA issued on September 6, 2013 (78 Federal Register 54849-54861) an Advance Notice of Rulemaking seeking by November 5, 2013 the input from local and state governments on the issue of retrofitting the DOT-111 tank car.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby supports the April 3, 2012 petition of Barrington, Illinois and the Illinois TRAC Coalition seeking new regulations to retrofit existing DOT-111 tank cars used to transport Groups I and II Packing Materials.

Section 2. That this Resolution shall be sent to the Pipelines and Hazardous Materials Safety Administration in Docket No. PHMSA-2012-0082 (HM-251) urging expeditious action on the joint Barrington and Illinois TRAC Coalition April 3, 2012 Petition No. P-1587.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 3rd day of December, A.D. 2013.

Mayor

ATTEST:

City Clerk