

RESOLUTION REGARDING NOTICE OF PROPOSED RULEMAKING PROCEEDINGS

“HAZARDOUS MATERIALS: ENHANCED TANK CAR STANDARDS AND OPERATIONAL CONTROLS FOR HIGH-HAZARD FLAMMABLE TRAINS”

**BEFORE THE PIPELINES AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
IN DOCKET NO. PHMSA-2012-0082 (HM-251)**

Whereas, each day, 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 the need to prevent catastrophic accidents like the one that occurred in Lac-Megantic, Canada in July 2013 as well as several others since then; and

Whereas, local governments have the responsibility to provide emergency response to manage the impact of rail accidents and derailments in communities across the country and to oversee clean up and environmental remediation; and

Whereas, clean up, environmental remediation, medical expenses other personal injury damages or wrongful death claims for community residents have the potential to surpass the rail industry’s ability to pay for them; and

Whereas, ethanol, crude oil, and other flammable Class 3 hazmat are a large and exponentially growing segment of rail freight being shipped across the nation and will continue as a growing and market-flexible transport mode 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 with the mission “to protect people and the environment from the risks of hazardous materials transportation”; and

Whereas, the business decisions of railroad companies and hazardous material shippers impact the safety, environment, and emergency response systems 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 safety deficiencies in DOT-111 tank cars despite repeated National Transportation Safety Board warnings, and waited until 2011 to seek government approval to upgrade safety standards for tank cars meant to carry liquid hazmat; and

Whereas, the comments submitted to PHMSA on December 5, 2013 by Barrington, Illinois and the Illinois TRAC Coalition reflect 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 tank car safety standards; and

Whereas, the August 1, 2014 NPRM released by PHMSA proposed various regulatory options for improving the crashworthiness of tank cars consisting of three standards of robustness and Option 1 is the best solution for maximizing the crashworthiness of tank cars and will best protect the public's safety; and

Whereas, the NPRM undercuts the strength of the proposed rules by limiting its coverage to only "high-hazard flammable trains" (HHFTs), defined as trains composed of 20 or more cars of Class 3 flammable liquids, and thereby exempts over 40% of rail car origins involving Class 3 hazmat commodities; and

Whereas, placed in the 2012 data context provided by PHMSA, this exempts from improved safety regulations 281,404 tank car originations annually – or 771 carloads of flammable hazmat traveling each day of the year in deficient tank cars throughout the United States; and

Whereas, if PHMSA does not bar the use of DOT-111 tank cars for all flammable hazmat service in its new regulations, those deficient tank car will be allowed to carry dangerous liquid hazmat for the remainder of their useful life (up to another 40 years); and

Whereas, any regulatory solution should solve the whole problem and not provide the public with a false sense of security around the rail transport of hazmat because federal Hazardous Materials Regulations (HMR) are designed "to ensure that hazardous materials are packaged safely" – meaning ALL hazmat, and not just large quantities; and,

Whereas, PHMSA's rationale for limiting the coverage of its new rules to HHFTs is not supported by the evidence the agency provides from its review of 46 mainline derailments that occurred between 2006 and 2013, in that those derailments show that the breach of even a single or a small number of tank cars can result in a significant release of hazmat; and

Whereas, a DOT-111 tank car is too dangerous for the shipment of any Class 3 hazmat and allowing a regulatory gap that extends their use for this transport will likely encourage industry to make operational changes that will continue to endanger the public and pose an environmental hazard; and

Whereas, it is critical in the event of a hazardous materials rail incident that local emergency responders are prepared and have access to adequate resources to appropriately respond; and

Whereas, preparation begins with local responder knowledge of what hazardous material is passing through a locality and the proper response beforehand, and

Whereas, railroads have the ability to inform local emergency responders about the hazmat threat to their localities and provide training for response to such, including information about the location and sufficiency of railroad assets which can be deployed to assist in an emergency response, and

Whereas, railroads have the ability to make the existence and location of hazardous cargo consists available promptly and directly to local emergency responders in the event of a rail incident;

Now, Therefore, Be It Resolved by the President and board of Trustees of the Village of Barrington Hills, located in the Counties of Cook, Kane, Lake and McHenry, Illinois, as a home rule municipality the following:

Section 1: We support comments seeking to insure that all tank cars used in the transport of Class 3 flammable hazmat, not only those in HHFTs, will be covered by the agency's new rules.

Section 2: We support comments supporting the Option 1 tank car standards, as that maximizes the crashworthiness and best protects public safety, as outlined in detail in Docket No. PHMSA-2012-0082 (HM-251).

Section 3: We support comments seeking to require railroads to provide to local emergency responders: adequate and timely information about the hazmat traveling through their jurisdictions, sufficient training to prepare for emergencies, including response support from the railroads transporting such hazmat in order to provide an effective and coordinated response to hazmat rail incidents.

Section 4: This Resolution shall take effect from and after its passage and approval as provided by law.

Section 5: This adopted Resolution shall be sent to the Pipelines and Hazardous Materials Safety Administration in Docket No. PHMSA-2012-0082 (HM-251) urging expeditious action so that rail transport of all Class 3 hazmat is covered by the rules promulgated from the August 1, 2014 PHMSA NPRM.


APPROVED THIS 22nd DAY OF September, 2014

AYES: 6


NAYS: 0

ABSENT: 0

ABSTAIN: 1

BY: 
(Print Name) Martin J. McLaughlin
(Title) Village President

ATTESTED AND FILED THIS 24th DAY OF September, 2014


(Title) Village Clerk