

## **CRUDE BY RAIL RULEMAKING FEDERAL GOVERNMENT FALLS SHORT**

### **1. New Tank Car Standards**

The Department of Transportation (DOT) adopted new tank car standards, requiring thicker shells, jackets, thermal protection, upgraded pressure relief valves, rollover protection, and protections for bottom outlet valves and top-fittings. The industry had acknowledged the need to include all of these features in its voluntary standard, except for the thicker shells. Industry had wanted to have shells no thicker than 7/16.” The final rule requires 9/16” thick shells.

### **2. Retrofits**

DOT requires that old tank cars be retrofitted, but notably to a weaker standard than for new tank cars. The shells can be 7/16” instead of 9/16,” even though DOT estimates that an additional 1/18” in shell thickness improves puncture resistance in an accident from 7% to 40%. And retrofitted cars will not need to have protections to secure top-fittings.

### **3. The Rule Has A Huge Loophole—It Does Not Apply To Every Tank Car— Hazardous Tank Cars Can Be Used to Ship Explosive Crude and other Hazardous Flammable Liquids in Blocks of 34 Tank Cars**

The tank car and retrofit standards apply only to “High-Hazard Flammable Trains (HHFTs).” The final rule defines those trains as having “a continuous block of 20 or more tank cars loaded with a flammable liquid or 35 or more tank cars loaded with a flammable liquid dispersed through a train.” 34 tank cars can carry approximately 1 million gallons of oil.

In contrast, Canada’s new standards apply to every single tank car. The hazardous tank cars should be taken out of hazardous liquid shipment altogether.

### **4. The Phase-Out Would Leave Hazardous Tank Cars on the Rails for 5-10 years Depending on the Type of Car and the Hazardous Material In It.**

The final rule phases out DOT-111 and CPC-1232 tank cars in HHFTs over a 10-year period. The phase out will not begin until January 1, 2018 and will run until May 1, 2025. <http://www.fra.dot.gov/eLib/Details/L16354>

The first 5 years focus on hazardous fuels classified as Packing Group I. Bakken crude can be classified as Packing Group I or II and was misclassified in several recent accidents. While Secretary Foxx suggested in the press conference that Bakken would be treated as Packing Group I and therefore phased out of shipment in the most hazardous tank cars (all DOT-111s and unjacketed CPC-1232s) by April 1, 2020, this does not appear to be required by the rule or the new testing and classification scheme. Shipping

of ethanol and tar sands diluted bitumen in these hazardous tank cars would not be phased out until 2023 – a full 8 years. Other hazardous flammable materials could be shipped in the hazardous tank cars until May 1, 2025.

**5. The Rule Will Not Exempt Tar Sands.**

The proposed rule would have allowed DOT-111s to be shifted to tar sands service. The final rule appropriately drops this loophole. Recent explosive accidents involving diluted bitumen demonstrate the risks of shipping diluted bitumen in rail tank cars. However, tar sands could be shipped in hazardous tank cars for 8 years under the phase-out.

**6. Braking Systems**

DOT requires HHFTs to have functioning braking systems—end-of-train braking devices and distributed power—that are already in place on Class I and II railroad unit trains. The rule phases in state-of-the-art ECP braking systems for trains with 70 or more loaded tank cars carrying flammable liquids and traveling at more than 30 mph (January 2021 deadline for trains carrying Packing Group I flammables and May 1, 2023 deadline for the other flammable liquids). ECP brakes would reduce accident severity by 36% compared to conventional braking systems whereas the other braking systems reduce accident severity by only 18%.

**7. Speed Limits**

The final rule imposes a 40 mph speed limit in high-threat urban areas for HHFTs, continuing the requirement imposed in April through an emergency order. The high-urban threat areas were designated as such due to the risks of terrorist attacks. Only a few dozen cities around the nation have been so designated, and the designation is not linked to risks from train derailments and explosions. Trains would still be allowed to travel at high, risky speeds through many large urban areas, other communities, and alongside drinking water supplies, schools, and national parks. And once a train has a sufficient number of cars that meet the new tank car or retrofit standards, the speed limits no longer apply, even though the recent rail accidents generally occurred at an average of 30 mph.

**8. Rail Routing**

The final rule extends a secretive industry routing analysis requirement to HHFTs. The current rail routing system leaves it to the railroads to assess routing options based on a list of 27 factors. It is a secretive process that lacks oversight and accountability.

**9. Rail Routing Information Access**

The final rule takes a step back from letting people know how many trains loaded with hazardous crude are coming through their communities. While it continues to require the railroads to notify state emergency response centers of the routes and frequency of train routes and basic emergency response information of HHFTs, it does so through a secret process that will keep this information from the public.

