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**Via Electronic Filing**

**<http://www.regulations.gov/#!submitComment;D=PHMSA-2012-0082-0180>**

U.S. Department of Transportation  
Docket Management System, West Building,  
Ground Floor, Room W12-140, Routing Symbol M-30,  
1200 New Jersey Avenue SE.,  
Washington, DC 20590.

**Re: Docket Number PHMSA-2012-0082 (HM-251) - Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains**

Dear Sir/Madam:

The City of Alexandria, Virginia ("the City") respectfully submits comments regarding the docket number PHMSA-2012-0082 (HM-251).

In general, the City strongly supports PHMSA's proposed revisions to the Hazardous Materials Regulations (HMR; CFR Parts 171-180). These revisions reduce the hazard associated with transporting flammable liquids by rail by reducing rails transportation speed, requiring a routing risk assessment, enhancing standards for tank construction and braking designs, and requiring community notifications. In particular, the City applauds PHMSA's decision to include recommendations by the National Transportation Safety Board (NTSB) in the proposed rulemaking which deal with better classification and characterization of the flammable products, enhanced tank car design and construction, and better rail route planning. The City has previously endorsed these recommendations in a letter dated May 28, 2014, to the Honorable Anthony Foxx, Secretary of the US Department of Transportation. However, the proposed regulations fail to address safety concerns relating to the use of tanker cars at transloading facilities in densely populated areas.

There are currently no federal regulatory requirements on rail carriers in regard to their choosing a site to transload flammable liquids. As a direct consequence, an ethanol transloading facility was located in the City of Alexandria within one hundred yards from Cameron Station and Summers Grove, two densely populated communities having approximately four thousand residents. The facility is located a little over one hundred yards from the Samuel B. Tucker Elementary School with approximately 700 students, and is immediately adjacent to the Backlick

*"Home Town of George Washington and Robert E. Lee"*

Run, a perennial stream. These communities have deep concerns regarding the risk of a catastrophic event that could be caused by a derailment of trains near this transloading facility or a spill resulting in a fire and/or explosion occurring at this location.

The City recommends that PHMSA seriously consider banning the siting of transloading facilities within 0.5 mile of densely populated residential areas to minimize the risk associated with a catastrophic event. Furthermore, due to the significant impacts of these facilities on local communities, the City believes that siting of these facilities should be subject to local land use planning and policy.

#### Definition of “high-hazard flammable train” (HHFT)

The proposed definition of HHFT is a train carrying 20 or more tank carloads of flammable liquids (including crude oil and ethanol). This is the equivalent to more than 640,000 gallons of flammable liquids, which is a substantial quantity of flammable liquids. The City recommends that HHFT be defined as a train carrying greater than 5 tank cars, which reduces the threshold to about 200,000 gallons.

#### Notification to State Emergency Response Commissions

The proposed rulemaking would codify DOT’s May 2014 emergency order requiring trains containing one million gallons of Bakken crude oil to notify State Emergency Response Commissions (SERCs) about the operation of these trains through their States. The one million gallon requirement is equivalent to about 32 tank cars. All other revisions are referring to the new definition for HHFT. The SERC notification should be in line with the definition of HHFT instead of the one million gallon requirement. Furthermore, the City strongly recommends that there be further requirement for local jurisdiction notification from State SERCs about anticipated HHFT transportation. Specifically, sharing that information with local emergency planning staff and the local Fire Department is critical, since they would be the first responders if an incident occurred. Specifically, PHMSA should require rail carriers or State SERC to provide local communities and emergency responders with the following:

- The nature, volume and shipping frequency of hazardous flammable liquids, as well as advance notification of decision by rail carriers to build a transloading facility.
- The risks associated with exposure to these hazardous materials in the event of an incident.
- A 24-hour hotline for reporting incidents.

#### Reduced Operating Speeds

The proposed rulemaking limits speeds to 40-mph in many areas, including high threat urban areas and areas with a population of 100,000. Speed control limits improve safety by reducing the amount of tank damage and car pile-up resulting from a crash. However, based on research data presented at the April 2014 NTSB Rail Safety Forum: Transportation of Crude Oil and Ethanol, no current tank car design would be able to prevent puncture during tests at speeds over 20 mph. Thus, the City supports lowering the train speed in densely populated communities and urban areas, and recommends the speed be reduced to 20 mph, consistent with the present tank car standards.

#### Enhanced Standards for both New and Existing Tank Cars

The City supports the proposed enhanced standards for both new and existing tank cars and the adoption of PHMSA and FRA designed tank cars having a minimum 9/16 inch shell thickness. Furthermore, the use of ultra-high tensile strength steel having a minimum of 1 GPa tensile strength should also be adopted to increase crash resistance of these tank cars.

Transloading Facilities Involving the Loading and Transfer of Flammable Liquids Should Be Covered by this Proposed Regulation

Federal law clearly preempts state or local regulation of “(1) transportation by rail carriers. . . and (2) the construction, . . . operation . . . or discontinuance of . . . tracks, or facilities.” 49 U.S.C. § 10501(b). The same federal laws also contains an expressed preemption provision stating that the federal remedies provided by that law “with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.” *Id.* Accordingly, the City and every other state or local government is precluded from the use of its traditional powers - police powers, land use regulation, etc. – with respect to rail operations or facilities. The City is of the strong opinion that in order to protect the public, especially in the densely populated areas, the assessment of risks associated with ethanol transloading facilities must be performed using the same methodologies as those for the HHFT routing, and that these facilities should be regulated by the same requirements proposed for the HHFT.

At a transloading facility having more than 20 tank cars, if these tank cars arrive in batches less than the HHFT definition, then they would be excluded from the proposed regulation, yet the facility can actually store many more cars well above the 20-car limit, such as the case of the transloading facility in Alexandria, causing even greater risks to the adjacent communities.

Unlike a HHFT that goes through a community for a few minutes, a transloading facility has those types of cars stored 24 hours a day, 365 days a year, in many cases. As a result, there is a significantly greater risk due to the amount of time that large quantities of flammable liquids would be present in densely populated areas. In addition to the presence of HHFT and its associated risk, there are also significantly greater risks due to several activities that occur at the transloading facility on a daily basis such as the loading and unloading of large volumes of flammable liquids and the regular shuffling or stacking of cars.

Therefore, at a minimum, the transloading facilities should be addressed as part of this proposed rulemaking, and if another rulemaking is needed to more comprehensively address these facilities, it should be enacted as soon as possible, and PHMSA should consider issuing an emergency order to address immediate safety concerns.

The City appreciates the opportunity to comment on this proposed rulemaking and applauds PHMSA’s effort to make rail transportation of hazardous flammable liquids such as crude oil and ethanol more safely. The City encourages PHMSA to move swiftly to address public safety concerns posed by the siting of ethanol transloading facilities in densely populated areas.

If there are any questions concerning these comments, please contact William Skrabak, Deputy Director, Department of Transportation and Environmental Services, at [william.skrabak@alexandriava.gov](mailto:william.skrabak@alexandriava.gov), or by phone at (703) 746-4065.

Sincerely,



William D. Euille  
Mayor

- C:   Honorable Members of City Council  
      Rashad M. Young, City Manager  
      Mark Jinks, Deputy City Manager  
      Yon Lambert, Acting Director, Department of Transportation and Environmental services  
      Robert Dubé, Fire Chief, Alexandria Fire Department  
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      Michael Cross, Battalion Chief, Alexandria Fire Department  
      James Kapsis, Chair, Alexandria Environmental Policy Commission