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Department of Transportation Misses the Mark In Protecting The Public and the Environment From Unsafe Oil Trains

Final Rule continues to unnecessarily expose communities and the environment to more danger

Philadelphia, PA – Today, the Department of Transportation (DOT) released its Final Rule on *Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains*. The final rule confirms what many suspected – it is business as usual for the crude by rail industry. Despite the horrific oil train derailments that continue to occur across North America that have led to deaths, injury, and environmental damage, the public can continue to expect more oil train derailments for years to come.

The actions taken by DOT today will do little to improve crude by rail safety for the immediate future. The DOT 111, the most numerous and vulnerable tank car in the crude by rail fleet because it is prone to puncture, remains in service for another three years under the final rule. And, for the CPC-1232 tank car, which is a supposed improvement over the DOT 111, but was coincidentally involved in the Lynchburg, Virginia and Mount Carbon, West Virginia derailments, the DOT allows non-jacketed cars to stay in service for another five years. “Any phase out of unsafe rail cars that is longer than 6 months is putting the convenience of the oil and gas industry over public safety and is ignoring DOT's own assessment. Federal action has been long overdue and we're glad to see some initial steps, however, much more needs to be done to make communities safe,” said Brooks Mountcastle, Eastern PA Director for Clean Water Action.

Requiring new tank cars constructed after October 1, 2015 to meet the DOT Specification 117 design with thicker tank shell and jacket, ½” full-heat shield, thermal protection, and improved pressure relief valves and bottom outlet valves are improvements, but come much too late given the catastrophic accidents from oil trains.

DOT failed to adequately address the speed at which oil trains travel. Under the final rule, the maximum speed restriction for oil trains is 50 miles per hour. A train that contains any tank cars not meeting the enhanced tank car standard must operate at 40 miles per hour in high threat urban areas. The DOT's own proposed rule revealed that engineers consulted about speed limits acknowledged that accidents would be reduced by 36% by adopting the 40 miles per hour speed restriction. DOT's own data in the proposed rule showed some of the major derailments between 2006 and 2014 occurred at speeds on the *average* of 32.4 miles per hour, and in most cases even lower speeds. DOT seems more concerned about slowing rail commerce than ensuring that oil trains get to their destination safely.

"It's essential that the federal government make oil trains safer and the modest gains made through the new tank car rules are important but they don't make transporting crude by rail safe for communities or the environment. The recent oil tank car derailments in West Virginia and Illinois occurred at lower speeds than these mandated limits and the faults that led to many of the oil train disasters that have occurred are not being corrected by these new regulations. We need sweeping change and we need it now, before we suffer a catastrophe here in the Philadelphia and Delaware River region," said Tracy Carluccio, Deputy Director, Delaware Riverkeeper Network.

With oil trains traveling at speeds of 50 and 40 miles per hour it is important to have an enhanced braking system to slow oil trains down to avoid or minimize an accident. The adoption of enhanced braking

system is a notable improvement over existing regulation, but the phase in period of January 1, 2021 or May 1, 2023, is entirely too long and only applies to trains carrying 70 tank cars or more

The misclassification of Bakken crude has been an ongoing problem in the crude by rail industry. The Bakken crude has a higher volatility and other uncharacteristic properties in comparison to traditional crude oil. Today's announcement by DOT to more accurately classify unrefined petroleum based products is a step in the right direction and should help to address problems of misclassification of Bakken crude, however a national standard for volatility prior to loading is still needed to protect communities. Surprise inspections by DOT in August 2013 of crude shipments found that 11 out of 18 were classified at a lower risk than what they should have been.

Finally, the rule addresses rail routing and information access. Clean Water Action believes there needs to be a better balance afforded to the public about disclosure of information and emergency response plans in particular. Last year, DOT Secretary Foxx said that details about oil train shipments are not a national security concern. "Given the holes in federal protection, local communities like Philadelphia should seek the authority to be able to act to protect their neighborhoods from these hazards," noted Mary Donahue, Program Organizer for Clean Water Action.

Clean Water Action has more than 100,000 members statewide in Pennsylvania and is the nation's largest grassroots group focused on water, energy and environmental health. Clean Water Action's 1 million members nationally work for clean, safe and affordable water, prevention of health-threatening pollution, and creation of environmentally-safe jobs and businesses. Clean Water Action's nonpartisan campaigns empower people to make democracy work. <http://www.cleanwater.org>

Delaware Riverkeeper Network is a nonprofit advocacy organization with 15,000 members throughout the watershed states working to defend the entire 13,539 square mile Delaware River Watershed. www.delawareriverkeeper.org