

CN argued against safety rule: memo

Commerce has topped security, critics contend

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CN Rail argued against an emergency provision - implemented after the Lac-Mégantic disaster - requiring that trains loaded with dangerous goods such as crude oil never be left unattended, newly released documents show.

Transport Minister Lisa Raitt issued the emergency directive last July 23 to address key safety deficiencies exposed by the fiery derailment that claimed 47 lives in the small Quebec town.

The measures dictated that at least two crew members work trains carrying hazardous goods, adding that no such train could be left unattended on a main track. A July 9 email obtained by Greenpeace Canada under the Access to Information Act shows CN Rail objected to having a crew member present round-the-clock, saying that ensuring fulfilment of the rule would be "nearly impossible."

The message was sent by a CN Rail representative - the name was stripped from the memo - to senior Transport Canada officials including Gerard McDonald, the assistant deputy minister for safety and security, who recently left the department. The email said it was important to note that CN has some 520 train starts per day, of which over 400 handle one or more cars with dangerous materials.

"As such, the requirement to ensure these are attended at all times would, in practice, be nearly impossible to ensure full compliance with. Our initial review of the implications of such a proposed requirement show that this could require operating employees to remain on duty for extended periods while waiting for relief crews."

In many instances, the time on duty may exceed that permitted under union rules, the email added.

"The ability to find another employee to monitor the train will in many cases be extremely difficult. Situations such as operations during winter storms will add additional difficulties."

The email surfaces following several accidents in North America involving oil-laden trains, including a derailment and explosion this week in New Brunswick.

The CN position - eventually adopted in a final version of the rules - puts commerce ahead of safety, said Keith Stewart, Greenpeace Canada's climate and energy campaign co-ordinator.

"There's a balance to be struck between safety and keeping costs low, and the railway industry has succeeded in making sure that keeping costs low has won out in terms of how the rules were finalized," he said Friday.

"There's a unique risk posed by these trains filled with oil, and leaving them unattended is a recipe for disaster."

Transport Canada quietly approved final safety rules, drafted by the railway industry, on Boxing Day just as the emergency directive was set to expire.

The latest rules drop the requirement that a train with hazardous cargo be continuously attended, but insist if it is left on its own that precise braking instructions be followed and the cab be secured to prevent unauthorized entry.

The new rules will prevent another tragic mishap like the one at Lac-Mégantic, where a train rolled away before coming off the tracks, said Kevin McKinnon, director of regulatory affairs at the Railway Association of Canada, of which CN Rail is a member.

He argued this week it is unnecessary to have someone continuously watch a train, saying people do not sleep outside alongside their cars.

Stewart rejected that analogy. "Your car parked in the driveway can't destroy your entire neighbourhood," he said. "A train filled with oil can. And that's why the rail companies should be required to take much stronger precautions to prevent that from happening."

The Teamsters Canada Rail Conference, the union representing many rail industry employees, had argued for a stricter braking standard for securing trains than the one eventually adopted, but it stopped short of calling for continuous on-the-scene monitoring because it knew the industry would not invest in the necessary crew.

"They could very easily have someone babysit that train," said Rob Smith, national legislative director with the Teamsters. "It's a matter of dollars and cents, really."

The government proposed new regulations Friday that would require rail tank cars that carry crude oil and other dangerous goods to be built stronger and less likely to rupture in a derailment.

Raitt said the proposed regulations will mean tougher standards for newly built DOT-111 tank cars. Under the proposal, new tank cars would need to be built with thicker steel and top fitting and head shield protection.

However, makers of the cars are already building them to the soon-to-be-implemented standards. "All she's doing is entrenching existing practice," said Stewart of Greenpeace.

Since October 2011 all new DOT-111 cars have been built to safer specifications. But with only a handful of manufacturers in North America and up to an 18-month backlog on new car orders, replacing the existing fleet will take years.

The DOT-111 tank car is considered the work horse of the North American fleet and makes up about 70 per cent of all tankers on the rails. The cars have a service life between 30 and 40 years.

Raitt also said the federal government could soon require that old tank cars be retrofitted or retired from rail fleets.

That will depend on consultations with the industry, as well as what lawmakers do south of the border.