



## RESOLUTION 2013-023

### **VILLAGE OF MONTGOMERY RESOLUTION SUPPORTING THE RETROFIT OF EXISTING DOT-111 RAIL TANK CARS THAT TRANSPORT PACKING GROUPS I AND II HAZMAT BEFORE THE PIPELINES AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION IN DOCKET NO. PHMSA-2012-0082 (HM-251)**

**Whereas**, 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 (1) the need to prevent catastrophic accidents like the one that occurred in Lac-Megantic, Canada in July 2013; and (2) the responsibility local governments have to provide emergency response units to manage the impact of rail accidents and derailments in communities across the country; and (3) significant costs associated with clean-up, environmental remediation, medical expenses, other personal injury damages or wrongful death claims for community residents that have the potential to surpass the rail industry's ability to pay for them; and

**Whereas**, ethanol and crude oil are a large and exponentially growing segment of hazardous materials being shipped across the nation via freight rail, which will continue to be a preferred transport mode of choice 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; and

**Whereas**, the business decisions of railroad companies and hazardous material shippers impact the safety, environment, and emergency response system 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 defects in DOT-111 tank cars, and waited until 2011 to seek government approval to upgrade safety standards for newly manufactured DOT-111 tank cars; and

**Whereas**, a tank car expert from the National Transportation Safety Board testified in 2012 that a retrofit of existing tank cars is necessary because co-mingling existing unsafe DOT-111 tank cars with newly manufactured ones "does nothing to improve the safety in an accident"; and

**Whereas,** the petition for rulemaking submitted to PHMSA on April 3, 2012 by Barrington, Illinois and the Illinois TRAC Coalition reflects 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 DOT-111 tank car safety and train consist dissemination; and

**Whereas,** the April 3, 2012 petition provides a compelling rationale for making long overdue changes in safe rail operations vis-a-vis retrofitting existing DOT-111 tank cars; and

**Whereas,** the April 3, 2012 petition demonstrates that the cost of a DOT-111 tank car fleet retrofit for existing cars would be of nominal expense over the remaining average thirty-year lifespan for the existing fleet, and

**Whereas,** PHMSA issued on September 6, 2013 (78 Federal Register 54849-54861) an Advance Notice of Rulemaking seeking by November 5, 2013 the input from local and state governments on the issue of retrofitting the DOT-111 tank car.

**Therefore, Be It Resolved** by the Corporate Authorities of the Village of Montgomery as follows:

**Section 1:** We support the April 3, 2012 petition of Barrington, Illinois and the Illinois TRAC Coalition seeking new regulations to retrofit existing DOT-111 tank cars used to transport Groups I and II Packing Materials.

**Section 2:** This Resolution shall take effect from and after its passage and approval as provided by law.

**Section 3:** 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 on the joint Barrington and Illinois TRAC Coalition April 3, 2012 Petition No. P-1587.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, this 12th day of November, 2013.

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President of the Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois

AYES: 5

NAYS: 1

ABSENT: 0



ATTEST:

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Clerk, Village of Montgomery