

Urging the Federal Department Of Transportation, Through The Federal Railroad Administration And The Pipeline And Hazardous Materials Safety Administration, To Immediately Issue New Rules Regarding The Transporting Of Crude Oil And Ensure An Immediate, Open, Public Process For Updating Regional Train Safety, Spill Response, Rail Operations, And Public Notification Plans For All Energy By Rail Transportation

Referred to: The Energy and Environment Committee (Chairman Bartels and Legislators Greene, Parete, Ronk, and Wawro)

Chairman of the Energy and Environment Committee, Tracey A. Bartels, and Legislators Archer, Greene, Gregorius, Loughran, Provenzano, and Wishnick offer the following:

WHEREAS, crude oil is increasingly being transported along railroads from production fields in the west to East Coast ports and refineries; particularly, the Bakken shale oil operations of North Dakota and heavy crude fields of Alberta, Canada; and

WHEREAS, the nationwide volume of crude oil transported by rail has increased to more than 400,000 carloads in 2013 compared to 9,500 carloads in 2008, a more-than 40-fold increase; as much as 20% of the highly volatile crude oil extracted from the Bakken formation is transported through New York State communities and ecosystems; and

WHEREAS, port facilities in and around Albany and along the Hudson River already move over a million gallons of crude oil from railcar to barges and vessel per day, with more capacity in development; by rail, at least two trains of crude oil head south through the Hudson Valley every day, each carrying approximately 3 million gallons of crude oil; and

WHEREAS, crude oil trains travel through Hudson Valley population centers, including the city of Kingston and numerous villages and towns, and near critical public infrastructure including hospitals, municipal buildings, water and sewer treatment plants, public education facilities, and private businesses; and

WHEREAS, crude oil trains in the Hudson Valley pass over or run adjacent to significant environmental resources, including state-designated “significant habitats” in the Hudson River; and

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WHEREAS, there have been a series of crude oil train derailments in the United States and Canada that have led to loss of life, loss of property, and significant economic and environmental damage, including the loss of 47 lives in Lac-Megantic, Quebec, in July 2013; and

WHEREAS, there have been at least four oil train derailments in New York State since December 2013, including one in the Town of Ulster, and two joint Federal-State "inspection blitzes" where dozens of safety problems were identified, highlighting the chronic, widespread and acute risks facing our communities and environment; and

WHEREAS, crude oil from the Bakken shale deposits has been proven to be more explosive and more corrosive, and heavy, sinking oils from tar sands formations much more viscous, than traditional crude oil, making the protection of public safety and environmental health, as well as spill response and remediation, more difficult and more dangerous; and

WHEREAS, on January 28, 2014, New York State Governor Andrew Cuomo signed an Executive Order recognizing that crude oil transportation by rail car and river vessels presents an ongoing major risk to New York communities and the environment, shortly after two safety recommendations by the National Transportation Safety Board reached the same conclusion and called for major system-wide reforms; and

WHEREAS, crude oil is mainly transported in DOT-111 rail tank cars designed for general purpose liquid transport, not for hazardous cargos, despite the fact that these railcars lack even the most basic safety measures (such as shields, pressure vents, or thicker hulls) and despite repeated recommendations from the National Transportation Safety Board over the past thirty years, most recently in March, 2012, and January, 2014, that they not be used for crude oil transport; and

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WHEREAS, the volume of oil carried in a DOT-111 railcar is just small enough to avoid triggering the development of a “comprehensive” response plan, meaning that no collaboration must take place between the railroads and the towns through which these rail cars transport crude, and that no official government certification that there is adequate response capacity for emergencies is required; and

WHEREAS, DOT-111 railcars are unacceptably dangerous, particularly in light of the woeful state of railroad enforcement, inspection, oversight, and safety, highlighted by the testimony of the Chair of the Surface Transportation Board in April, 2014, that “no community is prepared for a worst-case scenario” for crude oil-by-rail disasters; now, therefore be it

RESOLVED, the Ulster County Legislature recognizes that the transport of crude oil, especially Bakken and heavy crudes, by rail and vessel through our community presents an immediate, significant risk for the people, environment, and economy of our region; and, be it further

RESOLVED, the Ulster County Legislature urges Federal regulators of this industry, State response agencies, and the railroad industry itself to also request standards to address known, unacceptable, and outdated weaknesses of the DOT-111 railcars; and, be it further

RESOLVED, the Ulster County Legislature urges United States Department of Transportation Secretary Anthony Foxx to immediately invoke his authority under Title 49 of the United States Code, section 20104(a)(1), to issue an emergency order banning the use of class DOT-111 cars for transporting crude oil; and, be it further

RESOLVED, the Ulster County Legislature urges the Federal Department of Transportation, through the Federal Railroad Administration and the Pipeline and Hazardous Materials Safety Administration, to immediately issue new rules implementing the baseline National Transportation Safety Board safety recommendations for crude oil transport by rail, and to immediately require the development of federally-approved comprehensive response plans for any and all railcars transporting crude oil; and, be it further

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RESOLVED the Ulster County Legislature urges the National Transportation Safety Board to hold an immediate, open, public process for updating regional train safety, spill response, rail operations, and public notification plans for all energy-by-rail transportation; and, be it further

RESOLVED, that the Clerk of the Ulster County Legislature shall send copies of this Resolution to Federal Department of Transportation, Federal Railroad Administration, Pipeline and Hazardous Materials Safety Administration, National Transportation Safety Board, New York State Emergency Management Office, New York State Department of Transportation, Amtrak, CSX Transportation, Northfolk Southern Railway and Genesee & Wyoming Inc., United States Department of Transportation Secretary Anthony Foxx, New York State Governor Andrew Cuomo, New York State Senators John Bonacic, William Larkin, James Seward, and Cecilia Tkaczyk, and New York State Assembly Members Kevin Cahill, Peter Lopez, Frank Skartados and Claudia Tenney; and, be it further

RESOLVED, that the Clerk of the Ulster County Legislature shall send a copy of this resolution to each Town Clerk in Ulster County and to the Clerk of the City of Kingston for their memorialization,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 22 NOES: 0
(Absent: Legislator Provenzano)

Passed Committee: Energy and Environment on May 13, 2014

FINANCIAL IMPACT:
NONE

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STATE OF NEW YORK

ss:

COUNTY OF ULSTER

This is to certify that I, the undersigned Clerk of the Legislature of the County of Ulster have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 20th Day of May, 2014, and that the same is a true and correct transcript of said resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 23rd Day of May in the year Two Thousand and Fourteen.

|s| Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature