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Exploding oil-train owners want insurance slack — just like nuclear power

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Reuters/Mathieu *Belanger A burning rail car in Lac-Mégantic, Quebec, in July.*

Earlier this month, the Department of Transportation released its new proposal for oil-by-rail safety rules. This was long-awaited news. People who are interested in trains not exploding have been lobbying for stronger train cars that are designed to carry flammable liquids. Before the boom in crude shipping, most of the cars used to carry oil had originally been built to ship corn syrup.

So: stronger cars = good! Also, public comment on the new regulations is pretty lively. ("The Dot-111 tanker car is not suited for hauling watered down skim milk.")

But there is still trouble in regulation-land, and that trouble is insurance. Last summer, a runaway oil train derailed in the downtown of Lac-Megantic, Quebec, killing 47 people, spilling 1.6 million gallons of crude, and taking out 30 buildings. Montreal Maine and Atlantic, the railway company that was responsible, had $25 million in insurance, which has barely made a dent in the damage caused by the accident, since the environmental cleanup alone is expected to cost $200 million. ***Montreal Maine and Atlantic promptly declared bankruptcy.*** Since then, the province of Quebec has been footing the bill for the cleanup, and doing its best to sue Irving Oil, the company that the crude was being shipped to.

That's not going to be easy. Writes *Politico*:

Railroads know they're underinsured and have groused about the status quo, particularly considering the fact that energy companies that ship oil and ethanol largely do not bear any liability for an incident once their product is loaded onto a train. ***And under "common carrier" regulations, railroads cannot refuse a shipment any kind of material assuming it meets proper regulations.***

Warren Buffett's BNSF railroad, the pioneer in the oil train industry, has been requesting that railroads get some of the same protections now afforded to the nuclear power industry, using the Price-Anderson Act as a model.

Which is kind of extraordinary. Oil by rail doesn't hold out the kind of promise nuclear power once did. It's just an awkward workaround that was created by energy producers who were desperate to get a product to market, and were able to use features in railroad law — like common carrier regulations — that allowed them to do so with minimal safety requirements.

It's a stretch to give a company like BNSF access to a program that has been credited for insulating that industry from environmental risks. The claim probably has something to do with the fear that the next major oil-by-rail accident might happen in place a with a lot more people — and a lot more valuable real estate — than tiny Lac-Megantic.

BNSF has profited tremendously from the oil-by-rail boom. It's only fair that it — and other railroads — ***take on a fair share of the risk.***

Heather Smith (on Twitter, @strangerworks) is interested in the various ways that humans try to save the environment: past, present, and future.