

Latest rail-oil fire fans safety concerns

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OTTAWA - Yet another railway fire involving crude oil has prompted the chief executive officer of CN Rail to suggest that long-overdue regulatory changes to the tank cars used to transport dangerous goods will be introduced soon.

What is being called a controlled burn had been raging for more than 18 hours in northwestern New Brunswick late Wednesday after 17 cars on a CN train — some carrying propane, others crude oil — derailed and caught fire.

It is the fifth significant railway accident in North America in the past seven months amid an escalating oil-by-rail boom that appears to have caught government regulators on both sides of the border flat-footed.

A federal rail safety audit, completed last spring before July's deadly derailment in Lac-Mégantic, Que., claimed 47 lives, found "significant weaknesses" in Transport Canada's oversight.

Claude Mongeau, CEO of CN Rail, told a news conference Wednesday that the type of tank cars involved in the derailment near Plaster Rock, N.B., had not yet been determined.

But the Association of American Railroads, of which CN Rail is a member, has been pushing the U.S. Department of Transport to phase in tougher rules for tank car construction for flammable goods, he noted.

"The transport minister in Canada is personally involved in the same file and I would expect over the next several months that new regulations will come forward to strengthen the design of these cars," Mongeau said.

Older cars known as DOT-111s, the workhorse of the North American fleet, comprise roughly 70 per cent of all tank cars in current use. Yet they've been cited for safety concerns since the mid-1990s without governments on either side of the border stepping in to demand improvements.

Transport Minister Lisa Raitt's office issued a simple statement Wednesday saying only that the latest accident was being investigated.

But Prime Minister Stephen Harper defended his government's record on rail safety during a stop in Inuvik.

"We have made significant investments in rail safety and rail inspections," Harper said. "We have increased both of those vastly."

The prime minister said the government will look at any recommendations by the Transportation Safety Board following the New Brunswick investigation.

"We will take whatever further steps are necessary."

Canadian rail accident rates are very low, he added — in fact, Harper said, they're as low as they've ever been in the history of domestic rail lines.

NDP transport critic Olivia Chow said Wednesday she has no confidence that Transport Canada has the capacity to treat rail safety seriously.

"There's like a decade of neglect, indifference and high tolerance of incompetence," said Chow.

As for DOT-111 cars, "there's still no plan on how to phase out these cars. It's just unacceptable," she said. "It's chicken and egg: unless there's regulations and certainty, companies are not going to invest in retrofitting or building new tank cars."

David McGuinty, the Liberal transport critic, noted the Conservative government has burned through five transport ministers during its eight years in office.

"It's a place where people are circuiting through, either on the way down or the way up, but they're not taking it seriously," said McGuinty.

Critics are in full howl on both sides of the border.

Larry Beirlein is a Washington-based lawyer with the Association of Hazmat Shippers, which provides regulatory legal advice to industry on the full gamut of hazardous materials, from gas cylinders to refineries to nail polish.

Both the chemical industry and the rail industry petitioned the U.S. Department of Transport "several years ago" to make changes to the DOT-111 tank cars, Beirlein said in an interview.

But given the scope of the task, the competing interests and money involved, such reform "is no fun. It takes a bit of courage," he said.

"And at least in recent years in Washington, we haven't had any of that."

Beirlein said the number of derailments isn't on the rise, but the number involving cars carrying crude oil has spiked because there are so many more such cars on the rails.

He said regulators have been on the wrong foot ever since the Lac-Mégantic disaster, in which the focus was on the volatility of the oil and how it was labelled, rather than how it was being transported. Transport Canada has said the Megantic load was labelled Packing Group 3, the least volatile.

"Even if it were a Packing Group 1, 2 or 3 material, the same car is authorized" to carry the goods, said Beirlein. "It would make no difference."

"When you rip open steel in the presence of a flammable liquid, you will get a fire," said the American lawyer, who calls it an "obfuscation" by U.S. regulators when they focus on the source of volatile oil from the Bakken shale formation.

"It's all a distraction, frankly, from the fact they've had the ball in their court (on tank cars) for a long time and haven't done anything with it."

By Jim Bronskill and Bruce Cheadle, The Canadian Press