



Regulation Review

Final Tank Car and Train Safety Standards

MAY 14, 2015

The Pipeline and Hazardous Materials Safety Administration (PHMSA) recently released the final version of its revised safety standards for train cars carrying fossil fuels. The rule seeks “to address the unique risks associated with the growing reliance on trains” for the transportation of these products. The American Action Forum (AAF) previously reviewed its proposed version [here](#). The unofficial, pre-publication version of the [final rule](#) is 395 pages.

BREAKDOWN

Proposed Rule:

- Total Potential Costs: \$2.1 to \$5.8 billion (\$104 to \$291 million annualized)
- Total Potential Benefits: \$400 million to \$4.4 billion (\$20 to \$219 million annualized)
- Annual Paperwork Burden: 93,808 hours

Final Rule:

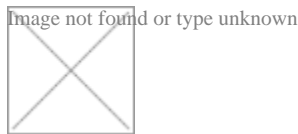
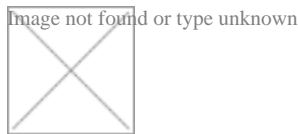
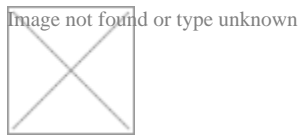
- Total Costs: \$2.5 billion
- Total Benefits: \$0.9 to \$2.9 billion
- Annual Paperwork Burden: 29,029 hours

ANALYSIS

The final cost figure is closer to the lower end of the proposed rule’s estimate. However, the benefits range is more contracted. As such, it is only at the point of “mitigating high consequence events” that the rule sees total net benefits; net costs could reach \$1.6 billion. While these figures are more modest than some of the possibilities presented in the proposed version, they are still quite substantial.

The costs are significant enough to exceed the threshold of the Unfunded Mandates Reform Act’s private sector expenditure provisions. PHMSA also produces a Regulatory Flexibility Act (RFA) analysis because it cannot certify that the rule “would not have a significant impact on a substantial number of small entities.” However, that analysis finds that the rule would likely not have a significant impact on small entities on an annual basis. There is little-to-no discussion about fuel supply or employment implications in either the rule or its [Regulatory Impact Analysis](#) (RIA).

Overall, there are positives and negatives to how the rule developed from its proposed to final stages. But much of PHMSA’s analysis neglects a very important development in the fuel transportation industry, one that the agency does not explicitly mention, but implicitly lurks in their data. For instance, take the following series of graphs in the rule’s economic analysis:



The pattern in all three should be clear: starting in approximately 2010, there has been a significant increase in fuel transported by rail. What other means of transport, or lack thereof, has been a major issue since at least that long? The Keystone XL pipeline. As the pipeline has languished, the market has naturally turned to rail as an alternative.

As the last graph above shows, there is a fairly direct relationship between rail transport volume and the potential for derailment incidents. This rule may mitigate some future derailments, but as noted in a past [AAF study](#): “According to the State Department, the Keystone XL presents annual risks of 1 injury and no fatalities. Rail presents a substantially higher risk of 189 injuries and 28 fatalities each year.”

This current rule, while bringing significant costs (perhaps even net costs), is still an improvement over some of the options PHMSA considered in its proposed iteration. It is a prime example of how certain regulatory decisions can create unintended consequences downstream.