LNG BY RAIL RULE SUSPENSION

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US Policy and Regulatory Alert

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The US Department of Transportation (USDOT) is suspending a rule that allows liquefied natural gas (LNG) to be transported by rail in specialized tank cars, starting 31 October 2023. This final rule overturns a Trump-era rule that allowed for the bulk transport of LNG by rail. The USDOT took these actions through the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA).

For decades, LNG and cryogenic liquids similar to LNG have been transported by highway and rail respectively within the United States. However, the Hazardous Materials Regulations (HMR) did not authorize the bulk transport of LNG in rail tank cars, except by special permit.

On 19 April 2019, then-President Trump issued Executive Order 13868 (84 FR 15495), which required that PHMSA amend the HMRs to "treat LNG the same as other cryogenic liquids and permit LNG to be transported in approved rail tank cars."

On 24 October 2019, PHMSA, in coordination with FRA, published the *Hazardous Materials: Liquefied Natural Gas by Rail* Notice of Proposed Rulemaking (NPRM) in the Federal Register. The NPRM updated the HMR to allow for the bulk transport of LNG by rail and it is consistent with Executive Order 13868.

On 24 July 2020, PHMSA published a final rule titled "Hazardous Materials: Liquefied Natural Gas by Rail" (85 FR 44994). The final rule allowed the bulk transport of LNG under certain circumstances, namely when tank cars are enhanced with a thicker carbon-steel outer tank, equipped with remote pressure and location monitoring, and have added safety measures in place such as route risk assessment.

The suspension of this final rule comes amid a legal challenge from a group composed of 14 states (California, Delaware, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington) and the District of Columbia, and another group composed of six environmental organizations (Sierra Club, Center For Biological Diversity, Clean Air Council, Delaware Riverkeeper Network, Environmental Confederation of Southwest Florida, and Mountain Watershed Association). In parallel, the Puyallup Tribe of Indians petitioned for review of the rule in the US Court of Appeals for the Ninth Circuit; the Tribe also filed an administrative appeal of the final rule before PHMSA.

These challenges, and a PHMSA notice in November 2021 that they intended to suspend the rule, effectively froze industry efforts to utilize this shipping method.

In addition to the suspension of this rule, one company that had received a special permit in 2019 to ship LNG by rail, had their permit extension request denied by Secretary Buttigieg in April 2023.

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