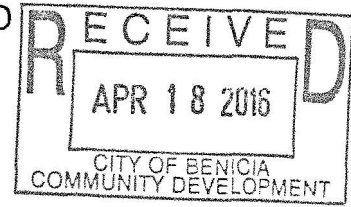


# Railroad/Valero liability in a worst case scenario



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For the public record, Valero Crude by Rail

Council members – There might be a few good questions and concerns here on potential financial impacts of Valero's proposal. This article focuses on Washington State, but it mentions California regulations, and shows an interesting formula for expectable costs in a worst case scenario. – Roger Straw

## WHAT WASHINGTON'S NEW OIL-BY-RAIL RULES WILL TELL US

**Taxpayers are on the hook for expensive oil train risks.**



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This article is part of the series [What Do Oil Train Explosions Cost?](#)

*A new rule will allow us to see just how much financial risk oil trains are foisting onto the taxpayers.*

Shipping crude oil by train is an extraordinarily dangerous enterprise. Notoriously prone to leaks and spills, recent history has shown that railcars can explode catastrophically when the fuel comes in contact with an ignition source. The damages can be profound. To make matters worse, the railroads that run the oil trains—and that are legally liable for damaging incidents—are chronically and severely underinsured

. In fact, Sightline has documented extensively for the public what is something of an open secret in the industry: that even the biggest railroads do not carry insurance proportional to the risks of their cargo.

In the worst oil train incident to date, a July 2013 derailment in Quebec, the resulting inferno killed 47 people and did roughly \$3 billion in damage to the small town. The railroad responsible, the Montreal, Maine and Atlantic Railway, which carried a scant \$25 million in insurance, filed for bankruptcy almost immediately, sticking Canadian taxpayers with the tab. It's a risk that looms large for the public in states like Washington, which host to oil trains every day. But now, a new rule will at least allow us to see just how much financial risk oil trains are foisting onto the taxpayers.

### Defining a “reasonable worst case spill”

Following on the heels of an oil transport safety bill signed by Governor Inslee in May 2015, the Washington Utilities and Transportation Commission (UTC) adopted new rules in early 2016 to increase the safety of oil train transportation. The rules also require that any railroad transporting crude oil in the state must include financial information in their annual reports to the UTC to show that the company could pay the costs of cleaning up a “reasonable worst case spill.”

But what does it mean to prepare for a “reasonable worst case spill”? The new rules require oil-hauling railroads to show that they can pay the costs, whether through insurance, reserve accounts, letters of credit, or other financial instruments or resources on which the company might rely. But to know how much that might cost, one first must define a “reasonable worst case spill.”

The worst case is widely considered to be a real-life event: the Quebec derailment that, along with killing dozens of people, spilled 1.6 million gallons of oil. That was a starting point for the UTC's estimates, but the commission scaled down its estimates from there, looking to states like California that have adopted similar rules and also a similar analysis done by the US Pipeline and Hazardous Materials Safety Administration (PHMSA), the federal regulatory agency that

oversees oil train safety standards. California, for example, defines a “reasonable worst case spill” as the loss of 20 percent of the oil cargo that a railroad can transport on a single train. The UTC took its cues from a scaled-down methodology created by PHMSA.

## Cleanup calculations

To calculate the “reasonable worst case” amount of oil that might spill, the UTC proposed a simple mathematical formula: take the top speed in miles per hour of oil trains operated by the railroad, divide by 65 mph (the speed of the train when it derailed in Quebec), and then square that number to factor in kinetic energy. For example, a railroad that operates oil trains at a maximum speed of 45 mph would divide that speed by 65 and then square the result to conclude that a “reasonable worst case” derailment could result in spilling 48 percent of the oil cargo on a single train.

The next step is to calculate the cost of cleaning up a reasonable worst case spill. The UTC set the minimum cost at of cleanup at \$400 per gallon. So to come up with the cost one would multiply \$400 by the reasonable worst case spill percentage (calculated on the largest oil train the railroad moved in the past year).

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Let’s do the math. Some oil trains have as many as 120 cars, and each car usually carries about 30,000 gallons of oil, so a 120-car train could carry up to 3.6 million gallons of oil. Assuming a top speed of 45 mph, a railroad should be prepared to clean up 48 percent of its cargo, or 1.73 million gallons of oil. At \$400 per gallon, the railroad should be able to pay for \$691 million in cleanup costs.

## Still not enough—by a long shot

Yet even these hundreds of millions of dollars in potential damages are far too low, as the UTC acknowledges. It does not take into account loss of human life, property damage, or other factors. In fact, the UTC admits that the \$400 per gallon cost does not capture the “full comprehensive societal damage” that results from an oil train crash. The costs of the Quebec derailment, hardly a theoretical exercise, were more than four times as high.

By contrast, the Genesee and Wyoming railroad that serves Grays Harbor, Washington—and that aspired to host as many as 17 oil trains each week to proposed port terminals—carries at most \$500 million in insurance. Tacoma Rail, which delivers 4 oil trains each week through Tacoma’s busy industrial port, has less than \$100 million in coverage.

And what can the UTC do with the financial responsibility information when rail companies’ first reports arrive to them next month? Not a lot. The same bill that enabled the UTC to write the rules also prohibited the agency from using the information as a basis for economic regulation or

penalization of the railroad.

The new rules will provide state taxpayers with valuable information: for the first time we'll be able to see just how exposed we are to the financial risks foisted upon us by oil trains.