

Energy Export and Transportation

Richard Allan

Marten Law

Portland

Environmental Law: Year in Review

OSB Environmental & Natural Resources Section

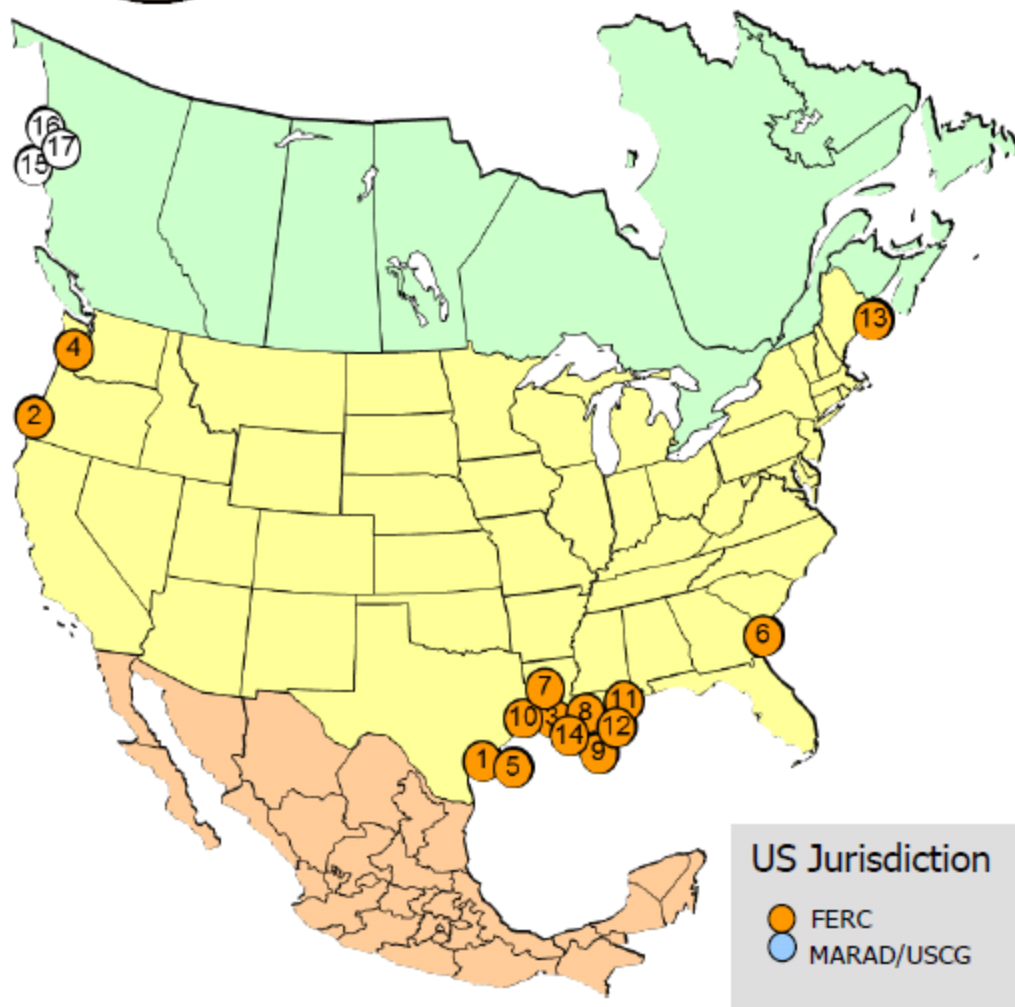
October 24, 2014





North American LNG Export Terminals

Proposed



Export Terminal

PROPOSED TO FERC

1. Corpus Christi, TX: 2.1 Bcfd (Cheniere – Corpus Christi LNG) (CP12-507)
2. Coos Bay, OR: 0.9 Bcfd (Jordan Cove Energy Project) (CP13-483)
3. Lake Charles, LA: 2.2 Bcfd (Southern Union - Trunkline LNG) (CP14-120)
4. Astoria, OR: 1.25 Bcfd (Oregon LNG) (CP09-6)
5. Lavaca Bay, TX: 1.38 Bcfd (Excelerate Liquefaction) (CP14-71 & 72)
6. Elba Island, GA: 0.35 Bcfd (Southern LNG Company) (CP14-103)
7. Sabine Pass, LA: 1.40 Bcfd (Sabine Pass Liquefaction) (CP13-552)
8. Lake Charles, LA: 1.07 Bcfd (Magnolia LNG) (CP14-347)
9. Plaquemines Parish, LA: 1.07 Bcfd (CE FLNG) (PF13-11)
10. Sabine Pass, TX: 2.1 Bcfd (ExxonMobil – Golden Pass) (CP14-517)
11. Pascagoula, MS: 1.5 Bcfd (Gulf LNG Liquefaction) (PF13-4)
12. Plaquemines Parish, LA: 0.30 Bcfd (Louisiana LNG) (PF14-17)
13. Robbinston, ME: 0.45 Bcfd (Kestrel Energy - Downeast LNG) (PF14-19)
14. Cameron Parish, LA: 1.4 Bcfd (Venture Global) (PF15-2)

PROPOSED CANADIAN SITES IDENTIFIED BY PROJECT

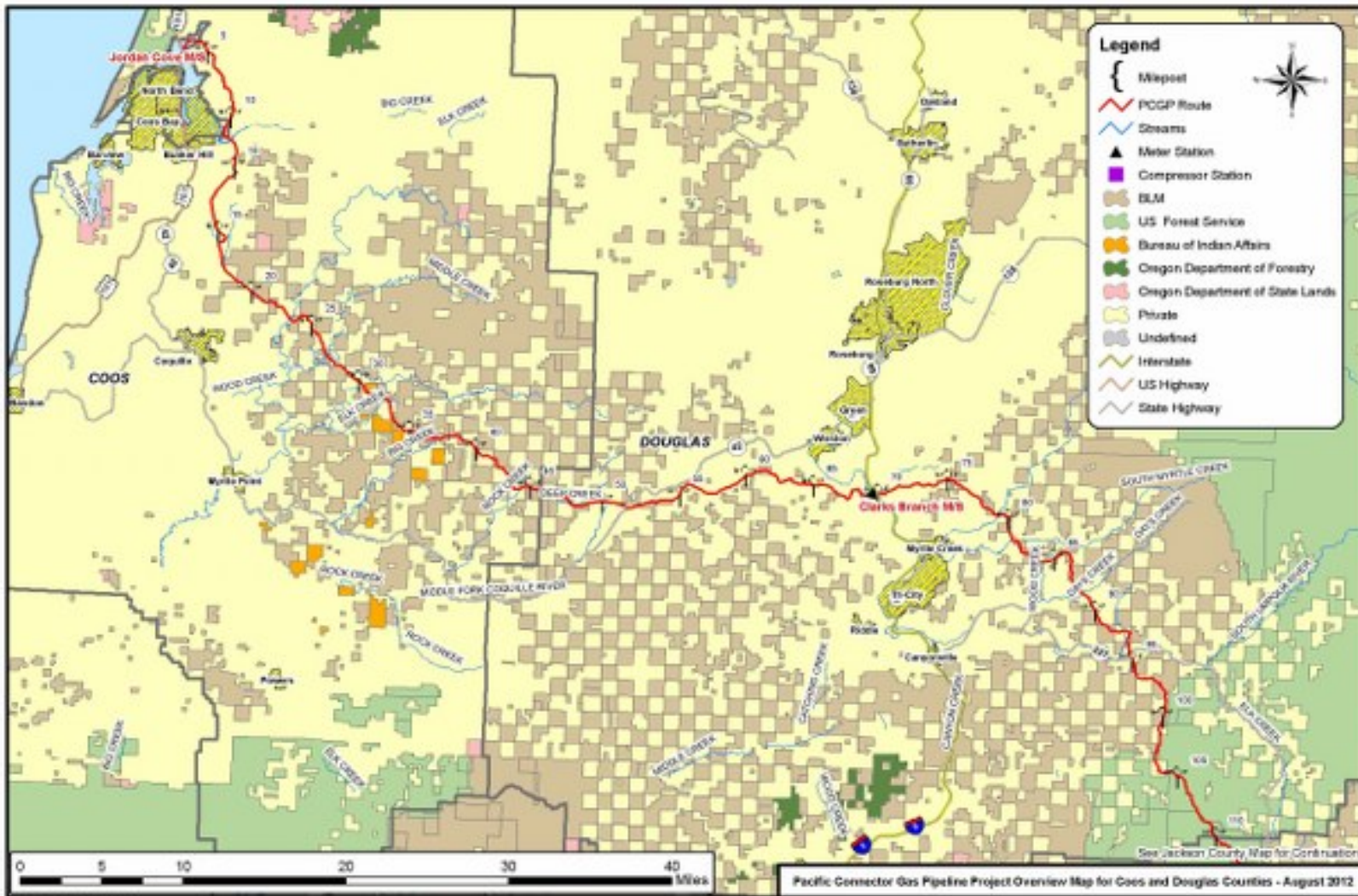
SPONSORS

15. Kitimat, BC: 1.28 Bcfd (Apache Canada Ltd.)
16. Douglas Island, BC: 0.23 Bcfd (BC LNG Export Cooperative)
17. Kitimat, BC: 3.23 Bcfd (LNG Canada)

As of October 14, 2014

Office of Energy Projects

Jordan Cove Energy Project Pacific Connector Gas Pipeline



Oregon LNG

Oregon Pipeline Company

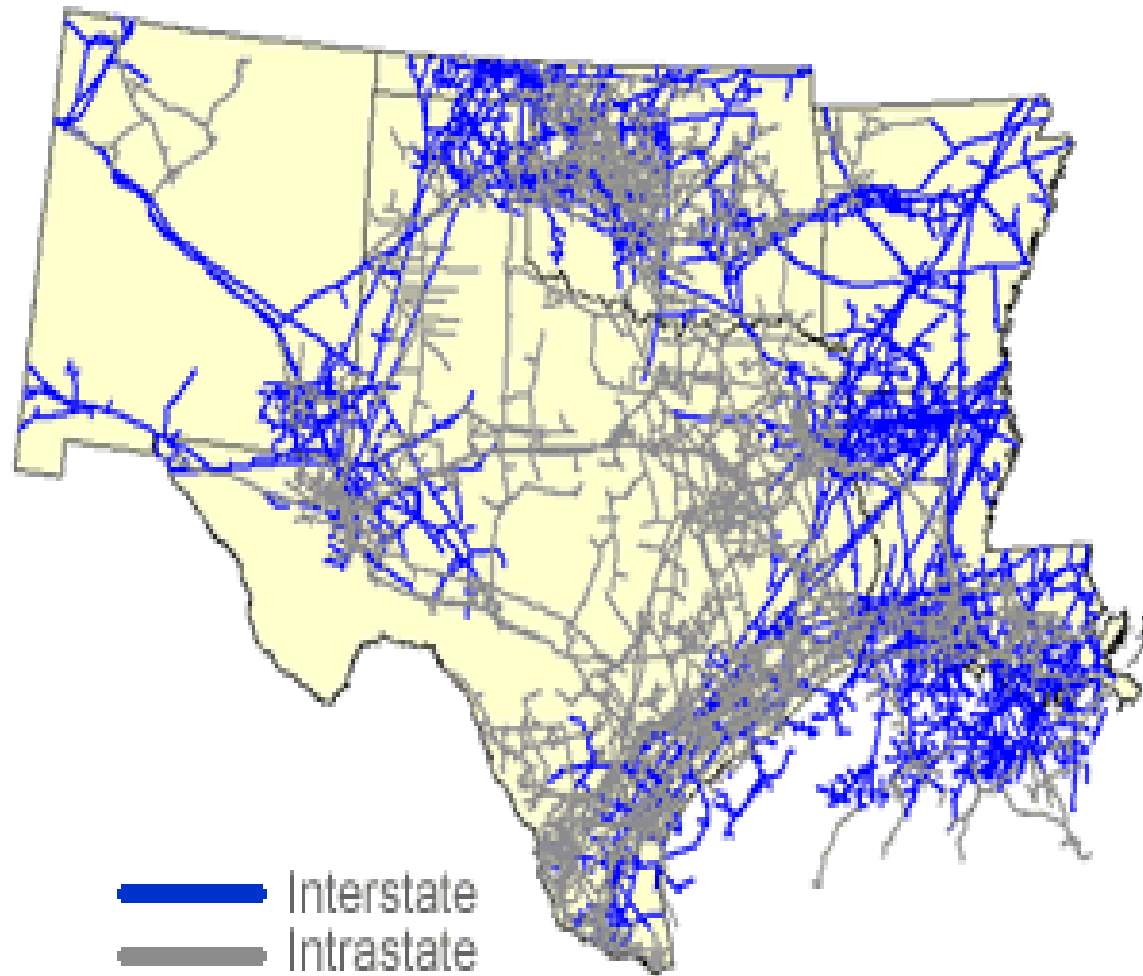


Western Region Natural Gas Pipeline Network



Source: U.S. Energy Information Administration

Southwest Region Natural Gas Pipeline Network



Source: U.S. Energy Information Administration

NGA and EPO Act

- Exclusive federal jurisdiction
- “Certificate of Public Convenience and Necessity” from FERC required
- Certificate accords holder with power of eminent domain
- Mandatory “pre-filing” process for pipelines related to LNG export or import
- FERC scheduling, consolidated schedule, and judicial review

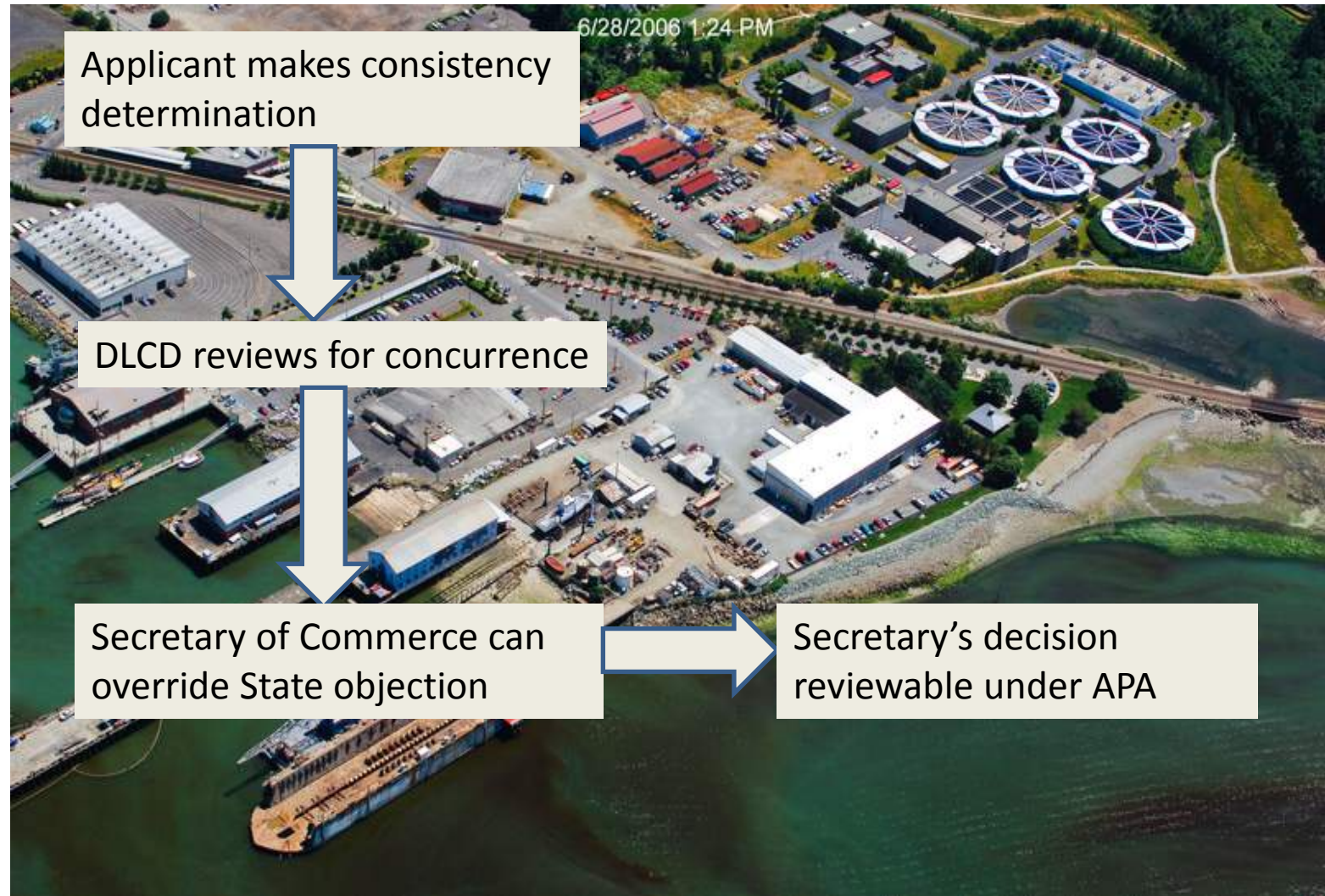


Preservation of a Delegated State Role



Coastal Zone Management Act
Clean Water Act
Clean Air Act

CZMA Consistency



The Oregon Pipeline Company Saga

Land use application: 10/9/09

Clatsop County
Hearings Officer

8/23/10 approval;
Both sides appeal

Clatsop County Board of
Commissioners

Alternative writ;
vacated 3/18/11

Petition for Writ of Mandamus by OPC 3/4/11

Clatsop County Circuit
Court

Writ dismissed 6/6/11;
OPC appeals

Oregon Court of
Appeals

3 new Commissioners
on 1/12/11

Decision on Reconsideration (Denial)
10/16/13
Appealed by OPC

Ct. of Appeals
affirms,
10/24/12
Supreme
Court denies
review
3/28/13

Peremptory writ issued
by Supreme Court
3/29/14

Decision
withdrawn
1/12/11

LUBA Decision
6/27/14
Appealed by both
sides

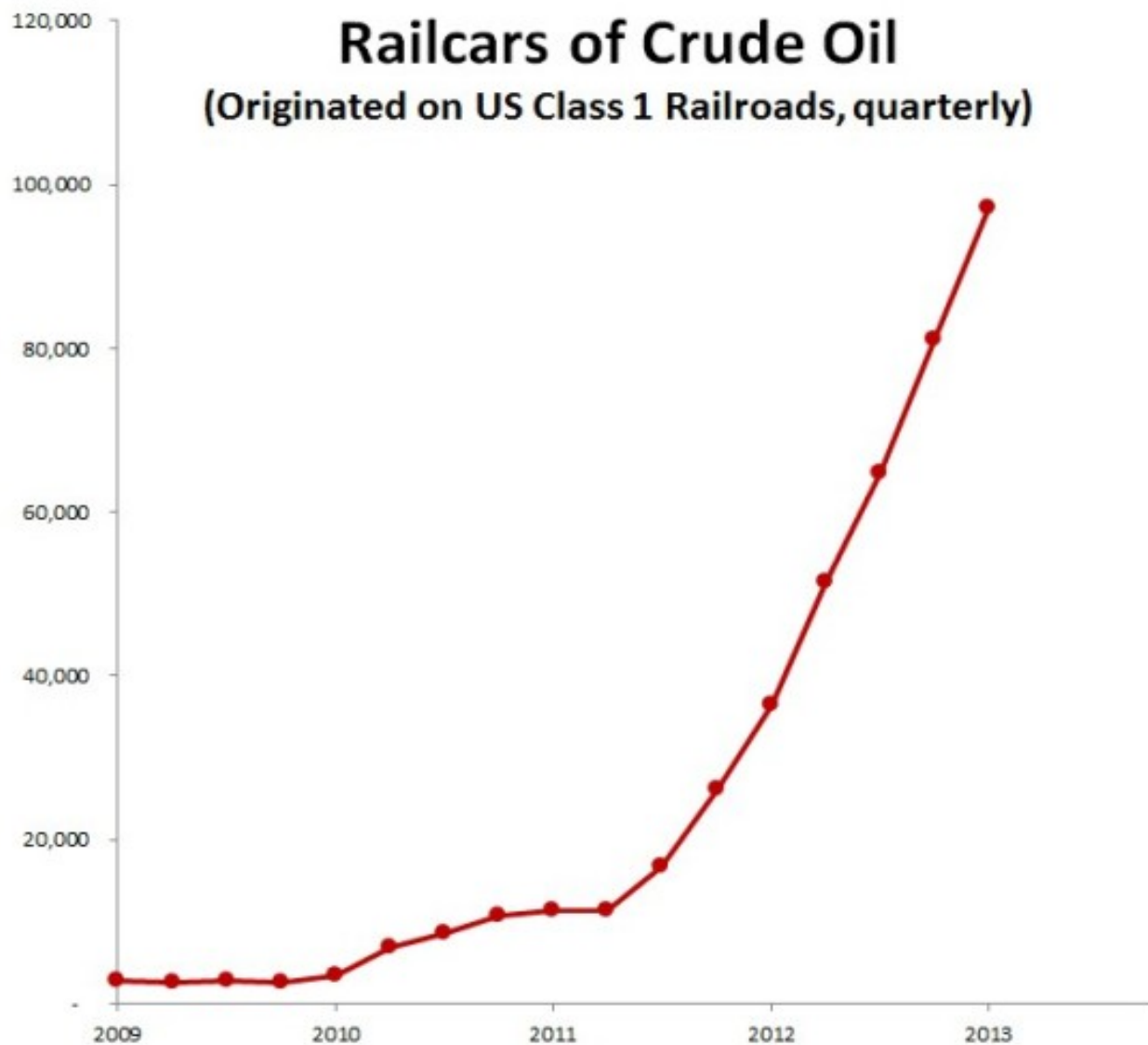
Oregon Supreme Court

Petition for Writ of Mandamus by OPC 3/21/11

Land Use Board of
Appeals

Trains





Source: Sightline Institute
<http://daily.sightline.org/2013/11/14/us-oil-train-trends-four-basic-pictures/>



Refineries and Crude Oil Pipelines

Source: EIA

Lynchburg, Virginia: April 2014



Aliceville, Alabama: November 2013



Casselton, North Dakota: December 2013



- Interstate Commerce Commission Termination Act of 1995 (49 U.S.C. §§ 10101 – 11908)
 - Establishes Surface Transportation Board (STB)
 - Gives the STB exclusive jurisdiction over transportation by rail carrier
 - “Common carrier” duty:
“A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part **shall provide the transportation service** on reasonable request.”

The DOT-111 Tank Car: “A Pepsi Can on Wheels”



By the Numbers



228,000 DOT-111 cars

92,000 carry flammable liquids

14,000 Built to Latest Standards

A Partial Cast

An aerial photograph of a train consisting of several white tank cars. The train is moving along tracks that curve through a landscape with green trees and some rocky terrain. The image is used as a background for the text boxes.

National Transportation Safety Board

Pipeline and Hazardous Materials Safety
Administration (USDOT)

Federal Railroad Administration
(USDOT)

American Association of Railroads

PHMSA Proposed Rules

45016

Federal Register / Vol. 79, No. 148 / Friday, August 1, 2014 / Proposed Rules

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 174, and
179

[Docket No. PHMSA–2012–0082 (HM–251)]
RIN 2137–AE91

Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains

AGENCY: Pipeline and Hazardous
Materials Safety Administration
(PHMSA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: The Pipeline and Hazardous
Materials Safety Administration
(PHMSA or we), in coordination with
the Federal Railroad Administration
(FRA), is proposing: new operational
requirements for certain trains
transporting a large volume of Class 3
flammable liquids; improvements in
tank car standards; and revision of the
general requirements for offerors to
ensure proper classification and
characterization of mined gases and
liquids. These proposed requirements

W12–140, Routing Symbol M–30, 1200
New Jersey Avenue SE., Washington,
DC 20590.

• **Hand Delivery:** To the Docket
Management System, Room W12–140
on the ground floor of the West
Building, 1200 New Jersey Avenue SE.,
Washington, DC 20590, between 9 a.m.
and 5 p.m., Monday through Friday,
except Federal holidays.

Instructions: All submissions must
include the agency name and docket
number for this document at the
beginning of the comment. To avoid
duplication, please use only one of
these four methods. All comments
received will be posted without change
to <http://www.regulations.gov> and will
include any personal information you
provide. All comments received will be
posted without change to the Federal
Docket Management System (FDMS),
including any personal information.

Docket: For access to the dockets to
read background documents or
comments received, go to <http://www.regulations.gov> or DOT's Docket
Operations Office located at U.S.
Department of Transportation, West
Building, Ground Floor, Room W12–
140, Routing Symbol M–30, 1200 New
Jersey Avenue SE., Washington, DC
20590.

Privacy Act: Anyone is able to search

DP Distributed power, an alternative brake
signal propagation system

ECP brakes Electronically controlled
pneumatic brakes, an alternative brake
signal propagation system

EO 28 FRA Emergency Order No. 28 (78 FR
54849; August 7, 2013)

EOT device Two Way End-of-train device
FR **Federal Register**

FRA Federal Railroad Administration

GRL Gross Rail Load

HHFT High-Hazard Flammable Train

HMT Hazardous Materials Table at 49 CFR
172.101

HMR Hazardous Materials Regulations at 49
CFR Parts 171–180

LPG Liquefied petroleum gas

NAR Non-accident release, the
unintentional release of a hazardous
material while in transportation, including
loading and unloading while in railroad
possession, that is not caused by a
derailment, collision, or other rail-related
accident

NPRM Notice of proposed rulemaking

NTSB National Transportation Safety Board

OTMA One-time movement approval

PG Packing Group (see 49 CFR 171.8)

PIH Poison Inhalation Hazard

RIA Regulatory impact analysis

RSAC Railroad Safety Advisory Committee

RSPA Research and Special Programs

Administration, the predecessor of PHMSA

SERCs State Emergency Response
Commissions

T87.6 Task

Force A task force of the AAR Tank Car

Committee