



STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
(207) 287-1300

RACHEL TALBOT ROSS
SPEAKER OF THE HOUSE

Tuesday, May 30th, 2023

Testimony of Speaker Rachel Talbot Ross presenting
LD 1937 An Act to Remove the Confidentiality of the Transportation
of Hazardous Materials by Railroad Companies
Before the Joint Standing Committee on the Judiciary

Senator Carney, Representative Moonen, and other distinguished members of the Judiciary Committee I am Rachel Talbot Ross and I represent House District 118 which is the Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus and I also have the distinct honor of serving as Maine Speaker of the House I am here today to present **LD 1937, An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies.**

At 8 30 am on Saturday, April 15th this year, a Canadian Pacific freight train derailed outside of the northern Somerset town of Rockwood on the banks of the Moosehead Lake Three locomotive engines and six rail cars left the track sparking a forest fire on the still snowy thawing early Spring mud The Maine Forest Services attributed the melting ice and debris that washed onto the tracks as the cause of the derailment Three railroad workers were taken to the hospital for minor injuries The Maine Forest Services also reported that there were additional rail cars carrying hazardous materials, but since they were not leaking, catching fire, or at risk to the public - those details remained confidential

The news story was of heightened concern for many Mainers familiar with a catastrophic train derailment just a few weeks prior in a small eastern Ohio town between Cleveland and Pittsburgh Details of the effects of that train crash were still being released as the public became more aware of the severity of the chemicals being transported Vinyl chloride was a new and terrifying word Many were quick to google to find out that vinyl chloride breaks down into two chemicals hydrogen chloride and phosgene Phosgene being highly poisonous colorless gas used in chemical warfare during World War I Butyl acrylate, a liquid used for making paint, adhesives, and sealants, was found in local surface water

District 118: Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus

Videos went viral of oil sheens of creeks that tributaries of the Ohio River. As many in Maine were hearing of the train derailment in the amusing sounding township of Sandwich Grant Academy, they wondered if what they were seeing happen in Ohio was about to happen at their own homes.

But the news never came. There was no alarm, no evacuation alerts, and not even a 'do not drink' advisory. The public had been reassured by the Maine Forest Services that the hazardous materials on the train that day were not at risk to the public, so there was no need to worry about them. It seems as though Maine dodged a bullet that day.

Sadly, this has become a common occurrence nationwide. According to the Federal Railroad Administration, there were at least 1,164 train derailments in the United States alone last year – roughly three derailments a day. Railroads meanwhile are abandoning industry safety practices to save money, such as increasing train lengths and reducing crew sizes. And with derailments becoming more common, the rail industry is working to keep from the public any knowledge of a reason to be concerned about what is happening.

Back in Rockwood, with ground firming up and heavy machinery able to finally clear the wreckage, cleanup seems to have come. It has been an arduous process. An April 18th Maine DEP press release detailed the impacts of the wreckage in the area. Fuel, hydraulic fluid and engine oil from the derailed engines saturated the soil and spilled into Moose River. Biologists from Maine Department of Inland Fisheries & Wildlife were needed to survey the area to understand the impacts to wildlife. Canadian Pacific assured the public that they were on the scene and taking lead to the response.

On April 20th, DEP Commissioner Melanie Loyzım sent a letter to Canadian Pacific's Hazmat & Emergency Response Officer:

To date, CPKC and/or their contractors failed to meet Department expectations regarding timing and response of clean-up activities in order to effectively mitigate impacts to the environment and public health, directives that the Department has issued in order to meet the Commissioner's satisfaction have not been attended to or completed.

The letter continues to state that Maine DEP is having to step in with the lack of urgency that Canadian Pacific has had with the Rockwood cleanup. The letter also stated that the two cars containing hazardous materials still had yet to be moved.

away from the wreckage Even though the wreckage was causing impacts on public health, because the two tankers containing hazardous materials were not actively leaking or on fire, the Maine government had no obligation to share the details of what liquid was attached to a train derailment A spokesperson for Canadian Pacific may not have been consulted by their legal team, and shared in an interview with the AP on April 16th – the two derailed cars carried the flammable liquids of ethanol and pentamethylheptane

Ethanol Highly flammable In event of a rail car fire, isolate for ½ mile in all directions Volatile chemicals have a high risk of being aspirated into the victim's lungs during vomiting which increases the medical problems

Pentamethylheptane Highly flammable Will be easily ignited by heat, sparks or flames Vapors may form explosive mixtures with air Vapors may travel to source of ignition and flash back Most vapors are heavier than air They will spread along the ground and collect in low or confined areas (sewers, basements, tanks) Containers may explode when heated In event of a rail car fire, isolate for ½ mile in all directions Contact may irritate skin, eyes, and mucous membranes Used as a solvent

Because of an exception to Maine's Freedom of Access Laws , the public had no right to know about these two tankers and the imminent danger they could have caused Only by chance of an overworked press staffer do we even know what could have been a new national 'word of the day', just like vinyl chloride

We can't blame the rail companies entirely for the recent derailments Even with all the recent events, rail is still by far the safest way to transport the volume of hazardous materials across long distances The problem is that the federal government has not made the investment in maintaining the rail lines Regardless, we need transparency in the transportation of hazardous materials through our community People have a right to know

Prior to the enactment of the public records exception of the transportation of hazardous materials by railroad companies, Maine had an active notification system where no malice had occurred With Maine being among the nation's largest exporting states due its proximity between the western oil fields and the Irving oil refinery in St John, New Brunswick, rail oil tanker's making their way through the Maine North Woods has been a common occurrence But on July 6, 2013, just 10 miles from the northern Franklin County border, a freight train carrying crude oil derailed in the town Quebec town of Lac-Mégantic causing a

massive explosion Heat from the fires was felt 1 2 miles away from the wreckage
47 total people perished

At that point in time, citizens demanded to know more information about trains passing through their communities In 2015, the Maine Legislature responded by passing LD 484 “An Act Regarding the Confidentiality of Railroad Carrier Cargo” This legislation was submitted by and for the beneficial and confidential use of the rail industry, according to a 2016 Pine Tree Watch interview between the sponsor of the bill The bill sponsor also testified to this as fact in his remarks to this committee, “The simple fact is there is a great deal of competition in the shipping business and disclosing publicly what, how much and how often you are transporting a product can be a serious competitive disadvantage ”

The legislation passed unanimously in committee and then through the legislature Former Governor Paul LePage vetoed the legislation when it came to his desk He stated in his letter to the legislature

One of the hallmarks of my administration has been transparency in government, another has been the protection of Maine citizens I cannot support a bill that is inconsistent with these goals When information about hazardous cargo traveling through this State is in possession of first responders and/or emergency management entities, it is highly possible that one reason these entities have this information in the first place is that something has gone wrong I am not at all comfortable shielding this information from the Maine citizens that may be placed in harm's what by these transports

The veto was overridden 146-1 in the House and 31-4 in the Senate The House agreed with the bill sponsor's comments on the floor, “It is proprietary information that businesses in Maine do not want to share with other folks ”

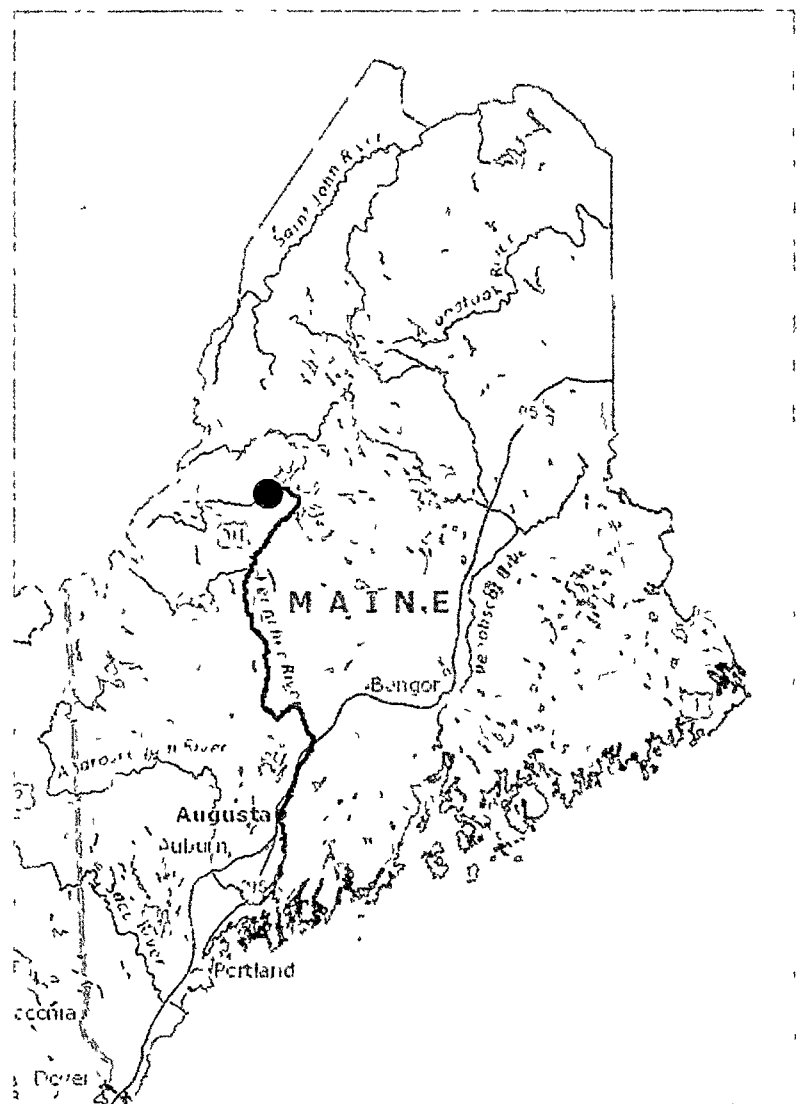
In 2019, there was foresight by the Right to Know Advisory Committee recognizing that the statute needed a clarifying addition

“ except that records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety, and welfare are subject to public disclosure after that discharge ”

The Judiciary Committee made this exception to the public records exception to review hazardous material shipments, if and only if it poses a threat to public health, safety, and welfare are subject to public disclosure after that discharge

That exception is just too late when there's possibility of major catastrophic health risks to a region. The addition to the exception is only going to be when the effects of the gas leak, the oil spillage, or the explosive fire columns are already occurring. We should not witness what happened in East Palestine and Rockwood and understand that only when a disaster is taking place is when the public has a right to know. That is an irresponsible action for public servants to make when thinking about the health and well-being of the people who we represent.

The two train cars carrying hazardous loads that *almost* derailed in Rockwood still has a public records confidentiality. If only two more connections down the line derailed, there would be a public record. There would also be a devastating event with highly flammable and *mucoous membrane* attacking chemicals would be in Moosehead Lake and into the waterways leading into the Kennebec River through the communities of Bingham, Madison, Norridgewock, Skowhegan, Fairfield, Waterville, Augusta, Gardiner, Richmond into the Merrymeeting Bay affecting the communities of Brunwicks, Topsham, Bath and exiting into the Atlantic Ocean at one of Maine's most visited and cherished state parks – Popham Beach. That is a state of emergency that no member of Maine government would ever to want to happen.



LD 1937 "An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies" will simply enough repeal the public exception for records related to the transportation of hazardous materials by a railroad company. Considering recent events and the statistical high likelihood of another train derailment, I have added an emergency preamble to this legislation so that immediately upon the bill becoming law, the public has a right to know what hazardous materials are being transported near their home.

This common-sense solution is fixing a recent error in the legislature. I hope that we all can think forward in considering a proactive action that we can act on now to fix the concern for public health before a catastrophic event were to take place. Thank you for time and attention.

MAINE RAIL SYSTEM 2016

