



## Protective Direction 31 - Requirements for Crude Oil shipped by Rail in response to Lac-Mégantic

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On October 17, 2013, Transport Canada issued [Protective Direction No. 31](#) (the “Direction”) pursuant to section 32 of the Transportation of Dangerous Goods Act, 1992. The Direction is in response to the Lac-Mégantic disaster on July 6, 2013, in which a train transporting crude oil derailed, resulting in a fire that caused several of the railcars to explode. The downtown core of Lac-Mégantic, a historic town in Quebec, was largely destroyed and at least 42 lives were tragically lost.

Testing conducted after the disaster revealed that the crude oil in the derailed railcars had been incorrectly classified in shipping documents.

The Direction requires any person engaged in importing or offering crude oil for transport to immediately test the classification of that crude oil, if that testing has not been conducted since July 7, 2013. The test results must be provided to Transport Canada on request.

Offering crude oil for transport means to select or allow the selection of a carrier to transport the crude oil, to prepare or allow the preparation of the crude oil so that a carrier can take possession of it for transport, or to allow a carrier to take possession of the crude oil for transport.

Until the testing is complete, crude oil transported by rail must be shipped as Class 3 Flammable Liquid Packing Group I. This is the classification required for the most flammable of liquids. Testing will determine whether a classification for less flammable liquids may be used.

Following testing, the person offering the crude oil for transport must immediately provide a Safety Data Sheet for the tested product to Transport Canada through the Canadian Transport Emergency Centre (also known as CANUTEC).

### Our view:

In the wake of the Lac-Mégantic disaster, Transport Canada has indicated it will further enhance the safety of railway operations and dangerous goods transportation in Canada. With the increasing reliance on rail to ship crude oil across North America, companies wanting to transport crude oil must ensure they are aware of and follow the requirements of the Transportation of Dangerous Goods Act, and its regulations and standards, in order to reduce the risk of accidents and to avoid liability.

Classification testing of crude oil has always been required by the Transportation of Dangerous Goods Regulations. The Direction reinforces this existing requirement. However, the importance of the Direction

is that it provides for the default classification of crude oil being shipped by rail where classification testing has not been completed since July 7, 2013.

We expect additional regulation in the near future to address safety issues regarding the increasing use of railcars to transport crude oil.

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