



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

February 13, 2014

The Honorable John D. Rockefeller IV
Chairman, Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Thank you for your letter to me and Secretary Moniz regarding the recent series of devastating accidents and explosions involving the transport of crude oil and other hazardous materials by rail. I appreciate your leadership on this important issue, and I share your sense of urgency in moving quickly to address the risks of these shipments in order to prevent future incidents.

Your letter highlighted certain actions that the U.S. Department of Transportation (DOT) has taken to help ensure the safe transportation of crude oil by rail, including the recent issuance of a safety alert by the Department's Pipeline and Hazardous Materials Safety Administration (PHMSA), and the initiation of the "Bakken Blitz" (also referred to as "Operation Classification") by PHMSA and the Federal Railroad Administration (FRA). The Department is committed to do more, and we are currently working with our stakeholders to find additional ways to address the unique challenges posed by the transport of crude oil, whether from the Bakken region of North Dakota or elsewhere.

As you may know, on January 16, 2014, the Department held a meeting with executives from the railroad and petroleum industries as part of DOT's "Call to Action" requesting industry to take immediate action to ensure that Bakken crude oil is properly classified and transported in the safest way feasible, and that communities and emergency responders have the information necessary to respond to incidents appropriately. We received positive responses from industry stakeholders, and we expect a report on their voluntary initiatives this month. We will carefully consider their suggestions and continue to engage with them on additional steps that are needed to promote rail safety.

But, while we are committed to working together with our industry partners, we will not wait to take action. Indeed, just last week, PHMSA issued three notices of probable violation to companies involved in the improper classification of crude oil in the Bakken region—our first enforcement actions resulting from Operation Classification.

These actions build upon numerous steps we have taken in recent months to improve the safety of the rail system. In the wake of the July 2013 accident in Lac-Mégantic, Quebec, FRA issued an emergency order to implement enhanced attendance and securement requirements for trains transporting hazardous materials by rail, including petroleum crude oil. The FRA and PHMSA also jointly published two safety advisories making recommendations to railroads and shippers of hazardous materials. In addition, FRA and PHMSA held a public meeting with industry

stakeholders to solicit their input on a comprehensive review of safety regulations applicable to the transportation of hazardous materials by rail.

On August 29, 2013, FRA convened an emergency session of the Railroad Safety Advisory Committee (RSAC). The RSAC includes railroad industry, labor, and governmental representatives who develop recommendations on new regulatory standards and other rail safety programs. During the emergency meeting, RSAC established three collaborative working groups to formulate new rulemaking recommendations regarding hazardous materials transportation by rail, appropriate train crew sizes, and train securement procedures. Each of these working groups has been meeting on a regular basis and is expected to produce formal recommendations for consideration on or before April 1, 2014.

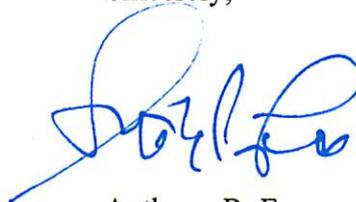
On September 6, 2013, PHMSA issued an Advanced Notice of Proposed Rulemaking to solicit comments on petitions for rulemaking and National Transportation Safety Board (NTSB) recommendations related to the safety of the transportation of hazardous materials by rail, including the regulations applicable to the DOT specification tank cars most commonly used to move crude oil and ethanol by rail. The comment period is now closed, and we are working on a rulemaking proposal to address these serious issues. However, in the interim, as a part of DOT's Call to Action, the rail and petroleum industries have committed to meet to try to reach consensus on further proposed changes to the Association of American Railroads' (AAR) rail tank car standard CPC 1232, so that DOT may consider it in the rulemaking process.

The Department has used energy forecasts and projections as well as commodity flow surveys produced by the U.S. Department of Energy (DOE) and AAR to better understand the volume of crude oil that is being transported by rail. I am working closely with Secretary Moniz and our teams will continue to collaborate, as you requested.

Finally, you also encouraged DOT to finalize rules to implement the rail risk reduction program requirements. Two rulemakings are currently underway to meet this statutory mandate: the System Safety Program (SSP) rulemaking and the Risk Reduction Program (RRP) rulemaking. The RRP rulemaking is currently in the Notice of Proposed Rulemaking stage, and FRA is formulating a final rule in the SSP rulemaking. An RSAC working group is also currently assessing and developing recommendations on railroad employee fatigue.

The increased amount of crude oil being shipped by rail poses safety risks that require us to take action to protect our communities. We take these risks seriously, and we look forward to working with you and with our other Congressional stakeholders to address these challenges. If I can provide further information or assistance, please do not hesitate to contact me. A similar letter has been sent to Chairman Wyden.

Sincerely,



Anthony R. Foxx