



U.S. Department
of Transportation

**Federal Railroad
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

JUN 19 2014

Senator Fran Pavley
Chair
Senate Natural Resources and Water Committee
State Capitol, Room 4035
Sacramento, CA 95814

Senator Hannah Beth Jackson
Chair
Joint Legislative Committee on Emergency Management
State Capitol, Room 2032
Sacramento, CA 95814

Assemblymember Wesley Chesbro
Chair
Assembly Natural Resources Committee
State Capitol
Sacramento, CA 95814

Dear Senators and Assemblymembers:

Thank you for your June 16, 2014, invitation for FRA to participate in your legislative oversight hearing on the risks of transporting crude by rail. While we cannot participate in the hearing, we share your sense of urgency on this matter as we continue to implement safety initiatives focused on the safe movement of crude oil throughout the Nation's transportation network. I submit this letter to the hearing record and will make staff available to answer any questions you have after the hearing.

The DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA) are working together to comprehensively address and mitigate the risks of transporting hazardous materials such as crude oil by rail. We are focused on addressing railcar survivability through tank car design improvements, rail operational practices, and proper testing and classification of crude oil.

Last fall, PHMSA published an Advanced Notice of Proposed Rulemaking soliciting comments on petitions for rulemaking, and the National Transportation Safety Board's recommendations related to the safe transportation of hazardous materials by rail, which includes proposals to impose enhanced standards for tank cars used to transport crude oil. We received extensive comments in response, and we are actively working toward

publication of a comprehensive rulemaking proposal focused on the safety of rail transportation of flammable liquids, including crude oil. In fact, during the Secretary of Transportation's recent visit to Casselton, North Dakota, he announced that DOT is sending the comprehensive rulemaking package to the Office of Information and Regulatory Affairs for review. The rulemaking builds upon numerous steps we have already taken to improve the safety of the rail system.

On May 7, 2014, the Department implemented the following additional measures to enhance crude oil transportation safety:

- The Department published an Emergency Restriction and Prohibition Order requiring all railroads that operate trains containing 1 million gallons of Bakken crude oil to notify State Emergency Response Commissions about the operation of these trains through their States.
- The FRA and PHMSA issued a safety advisory recommending that offerors and carriers of Bakken crude oil use tank car designs with the highest level of integrity available in their fleets.

In February, the Department issued an Emergency Restriction and Prohibition Order, as Amended and Restated, to all persons who offer for transportation or transport in rail commerce to, from, or within the United States crude oil in bulk quantities:

- Mandating proper testing (conducted with sufficient frequency and quality) and classification of petroleum products (i.e., petroleum crude oil) prior to them being offered in transportation.
- Requiring persons who offer or transport bulk quantities of crude oil for transportation in rail commerce to treat Class 3 petroleum crude oil as a Packing Group (PG) I or PG II hazardous material until further notice.
- Prohibiting persons who ordinarily offer petroleum crude oil for shipment as UN1267, petroleum crude oil, Class 3, PG I, II, or III from reclassifying such crude oil with the intent to circumvent the requirements of this Amended Order.

As a result of the Secretary's Call to Action, on February 21, 2014, the Association of American Railroads agreed to pursue the following actions:

- Apply HAZMAT routing analysis to trains with 20 or more tank cars loaded with petroleum crude oil. The routing analysis utilizes a computer model to analyze 27 risk factors to determine the safest and most secure route for the product to travel.
- Implement speed restrictions in high-threat urban areas.
- Equip all trains with 20 or more tank cars of crude oil on main track with distributive power locomotives or an operative two-way telemetry end of train device to achieve benefits in braking speed and substantially reduce the kinetic energy in trains to prevent pile ups.
- Increase the frequency of rail track inspections.

- Installation of wayside defective bearing detectors on crude routes every 40 or fewer miles to prevent equipment-caused accidents.
- Inventory crude oil routes and share this information with emergency responders.
- Work with communities on key crude oil train routes to address location-specific concerns.
- Provide \$5 million to develop and provide training on safe hazardous material transportation.

On February 21, 2014, the American Petroleum Institute (API) agreed to pursue the following actions:

- Develop a comprehensive standard for testing, classification, loading, and unloading of crude oil based on the best available science and data. PHMSA committed to participate in this effort aimed at ensuring crude oil is packaged and shipped safely and appropriately.
- Work with DOT to share information and expertise on crude oil characteristics.
- Participate in any effort to improve tank car design.
- Work with the railroads to enhance emergency response training.

We have also taken the following actions:

- The FRA Emergency Order 28 (EO 28) implementing enhanced attendance and securement requirements for trains transporting certain hazardous materials by rail, including crude oil and ethanol (78 FR 48218 (EO 28) (August 7, 2013)).
- The Agencies' joint safety advisories published on August 7, 2013 (78 FR 48224), and November 20, 2013 (78 FR 69745), stressing the importance of safety and security planning and proper characterization and classification of hazardous materials being shipped.
- The initiation of a comprehensive review of operational factors that affect the transportation of hazardous materials by rail (see 78 FR 42998 (July 18, 2013)).
- The referral of safety issues related to EO 28 and the joint safety advisories to FRA's Railroad Safety Advisory Committee.
- The initiation of Operation Classification (involving joint activities at all phases of transportation to investigate how shippers are classifying crude oil and what actions they are taking to determine the characteristics of the material).
- The PHMSA's January 2, 2014, Safety Alert, which warned of crude oil variability and emphasized that unprocessed crude oil, may affect the integrity of packaging or present additional hazards related to corrosivity, sulfur content, and dissolved gas content.

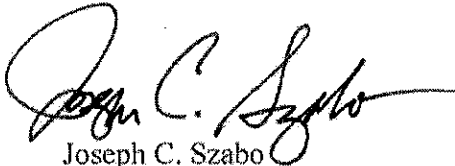
The FRA and PHMSA are also working jointly to conduct "Operation Safe Delivery." This initiative involves joint activities at all transportation phases to investigate how shippers and carriers are classifying crude oil and to understand the characteristics of the material. Efforts have focused primarily on the Bakken region and include spot inspections, data collections, and sampling that help in verifying compliance with Federal safety regulations. Please visit the Web site for Operation Safe Delivery: Enhancing the Safe Transport of Flammable

Liquids (<http://www.phmsa.dot.gov/hazmat/osd/calltoaction>) for details on these safety efforts.

The FRA and PHMSA are sharply focused on developing and finalizing a regulatory package. In addition, DOT continues to leverage our rail safety inspection and outreach efforts to ensure safety and increase awareness.

We take the risks associated with transporting crude oil by rail seriously, and we look forward to working with you and our other State and local partners to address these challenges. If you need further assistance, please have your staff contact Mr. Nathan Robinson, FRA's Director of Congressional Affairs, at (202) 493-6022 or Nathan.Robinson@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph C. Szabo". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joseph C. Szabo
Administrator