



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

Administrator

1200 New Jersey Ave., S.E.
Washington, DC 20590

November 6, 2017

The Honorable Tammy Baldwin
United States Senate
Washington, DC 20510

Dear Senator Baldwin:

Thank you for your letter of October 16, 2017, regarding the U.S. Department of Transportation's (Department) progress in implementing the rail safety provisions in the Fixing America's Surface Transportation Act of 2015 (FAST Act; P.L. 114-94). The Department has completed work on many of the FAST Act mandates specific to the safe transportation of crude oil and energy products by rail.

Based upon the information compiled by PHMSA's staff, I have provided an update of our progress specific to your inquiries below:

- **Section 7302. Real-Time Emergency Response Information:** On January 19, 2017, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published an Advance Notice of Proposed Rulemaking (ANPRM) titled "Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information by Rail" [82 FR 6451]. The ANPRM solicited comments and input from stakeholders regarding the FAST Act directive to require Class I railroads that transport hazardous materials to generate accurate, real-time, and electronic train consist information to be shared with emergency responders and law enforcement personnel after being routed through fusion centers. Docket No. PHMSA 2016-0015.¹ The comments address many of the questions raised in the ANPRM, including the potential impact these requirements could have on fusion centers and emergency responders, which are currently under review within the Department.
- **Section 7304. Phase-Out of all Tank Cars Used to Transport Class 3 Flammable Liquids:** On August 15, 2016, PHMSA published a Final Rule titled "Hazardous Materials: FAST Act Requirements for Flammable Liquids and Rail Tank Cars" [81 FR 53935] to codify certain FAST Act mandates. The Final Rule revised the phase-out schedule for all DOT-111 and CPC-1232 standard tank cars used to transport unrefined petroleum products, ethanol, and other Class 3 flammable liquids. Additionally, the Bureau of Transportation Statistics, in consultation with PHMSA, submitted a report to Congress on September 22, 2017, titled "Fleet Composition of Rail Tank Cars That

¹ <https://www.regulations.gov/docket?D=PHMSA-2016-0015>

Transport Flammable Liquids: 2013-2016,” to highlight current industry progress in upgrading the rail tank car fleet to meet new safety requirements.² The Department will continue to provide annual updates to Congress, as well as work with industry stakeholders, to ensure progression and encourage acceleration of the tank car phase-out process.

- **Section 7307. Rulemaking on Oil Spill Response Plans:** PHMSA, in consultation with the Federal Railroad Administration (FRA), published a Notice of Proposed Rulemaking (NPRM) on July 29, 2016, titled “Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains” [81 FR 50067]. The NPRM proposed to expand the applicability of comprehensive oil spill response plans to high-hazard flammable trains based on certain thresholds of petroleum oil. Currently, PHMSA is drafting a Final Rule and Regulatory Impact Analysis, and the estimated publication date of the final rule is Fiscal Year 2018.
- **Section 7310. Hazardous Materials Rail Liability Study:** PHMSA, in cooperation with FRA and other Federal agencies, completed a study of the levels and structure of insurance for railroads transporting hazardous materials. A draft report is currently under review within the department. Upon approval, the report will be submitted to Congress.

Additionally, the multi-phase Comprehensive Crude Oil Research Sampling, Analysis and Experiment Plan Study (Sandia Study)—conducted by Sandia National Laboratories and co-sponsored by the U.S. Departments of Energy and Transportation, with contribution from Transport Canada—responds to public concern regarding train derailments resulting in crude oil releases and ultimately seeks to determine whether unconventional crude oil presents a measurably higher level of hazard in transportation compared to conventional crude oil. The Sandia Study is ongoing. Pursuant to section 7309 of the FAST Act, the Secretary of Energy, in cooperation with the Secretary of Transportation, will submit a report to Congress containing results and recommendations for regulations and legislation based on the findings.

The Department also provides financial and technical assistance to emergency responders for hazardous materials planning and training to improve preparedness and address possible crude-by-rail incidents. In 2017, PHMSA awarded \$20.4 million in grants under the Hazardous Materials Emergency Preparedness (HMEP) grant program to 63 jurisdictions (States, territories, and Tribes) to develop, improve, and carry out emergency planning for incidents involving hazardous materials. In 2017, the State of Wisconsin received \$364,031 in HMEP funding. Additionally, PHMSA issued \$4.7 million to non-profit organizations under three different grant programs, including the Assistance for Local Emergency Response Training (ALERT) grant and the new Community Safety grant.

In May 2015, PHMSA launched the Transportation Rail Incident Preparedness and Response (TRIPR) training program, which provides an online curriculum specific to Class 3 flammable

² See <https://cms.bts.dot.gov/surveys/annual-tank-car-facility-survey/fleet-composition-rail-tank-cars-transport-flammable-liquids>.

liquids. The online training modules have logged more than 34,231 users nationwide. PHMSA—along with the Environmental Protection Agency, emergency response experts from the rail industry, and trainers with State and local governments—has supported 17 workshops across eight states, with over 1,792 total emergency responders participating. The State of Wisconsin has hosted three TRIPR workshops so far, with 175 total participants:

- Stevens Point, February 11–12, 2016;
- Stevens Point, February 15, 2017; and
- Wisconsin Dells, March 7, 2017.

If I can provide further information or assistance, please feel free to call me or have your staff contact Patricia Klinger, Deputy Director of the Office of Governmental, International, and Public Affairs, by phone at 202-366-4831 or by e-mail at Patricia.Klinger@dot.gov. I hope this information is helpful.

Sincerely,



Howard R. Elliott