

**STATEMENT OF
THE HONORABLE ANTHONY FOXX
SECRETARY OF TRANSPORTATION**

**BEFORE THE
APPROPRIATIONS SUBCOMMITTEE ON
TRANSPORTATION, HOUSING, AND URBAN DEVELOPMENT AND
RELATED AGENCIES
RAILWAY SAFETY
UNITED STATES SENATE**

April 9, 2014

Introduction

Chairman Murray, Ranking Member Collins, and Members of the Subcommittee thank you for the opportunity to meet with you today to discuss the Department of Transportation's work in ensuring the safe transportation of energy products throughout the Nation. This emerging issue affects multiple aspects of our transportation network and ensuring the safety of that system is my top priority.

Over the past decade, the United States has successfully expanded our domestic energy production. In particular, the crude oil and natural gas extracted from the region of North Dakota has yielded impressive results and now provides over 900,000 barrels of oil daily. As a result, North Dakota is now our second largest oil producing State – yielding more than ten percent of all oil produced in the United States. All of this is good news for our economy and good news for our energy independence.

However, at the same time, the increased presence of energy products within our borders and the need to transport them to refineries and distribution points nationwide have raised emerging concerns about our ability to move these products safely through our highways, waterways, and rail systems. Today, I want to share with you the ongoing efforts within the Department of Transportation to address these concerns and to highlight specific initiatives within the FY 2015 President's Budget that would support both prevention and response efforts in this area.

The Department of Transportation has been focused on the safe transportation of hazardous materials for many years. Because hazardous materials are transported by several modes of transportation, the Department's prevention and response activities are shared by several of our Operating Administrations. The Pipeline and Hazardous Materials Safety Administration (PHMSA), Federal Railroad Administration (FRA), and Federal Motor Carrier Administration (FMCSA) all play a role in ensuring that hazardous materials are transported safely.

PHMSA provides oversight and guidance to more than 40,000 companies involved in the commercial transportation of petroleum products and hazardous materials. Each day, about a million different explosive, poisonous, corrosive,

flammable, and radioactive hazardous materials are transported through our transportation corridors – representing as much as 6 million tons of hazardous materials. The majority of the products under PHMSA’s jurisdiction represent oil and natural gas.

Over the past few years, PHMSA’s efforts have focused on two fronts: increasing compliance with existing rules and regulations while at the same time increasing both industry and public awareness of the risks associated with the transportation of oil and other energy products by rail. PHMSA’s enforcement efforts have yielded significant results. In fiscal year 2013 alone, PHMSA conducted 1,655 high risk hazardous materials inspections. As a result of these inspections, PHMSA opened 224 enforcement cases and issued more than 460 citations including some with penalties of nearly \$1.6 million.

At the same time, PHMSA also devotes significant attention to educating the industry and the public on hazardous materials safety and partners with the States to increase awareness on safety standards and practices. To enhance the dialogue between PHMSA and State and industry partners, PHMSA established a Joint Safety Advisory Committee to address rail safety concerns and to illicit feedback on needed safety improvements. These steps are all part of PHMSA’s aggressive campaign on multiple fronts to mitigate risks and ensure transportation safety.

We recognize -- as is often the case -- that comprehensive solutions to our difficult transportation issues require a multimodal focus. In the case of crude oil and energy products transportation, much of this material is moved by trucks and rail or a combination of both as the product travels from the oil wells to refineries and distribution points. At every stage of the process opportunities exist for safety risks that must be mitigated. This is why PHMSA is joined by FRA and FMCSA in addressing hazardous material transportation safety concerns.

For example, FRA has long held the authority to issue Emergency Orders as a method for addressing safety concerns on rail. In August of 2013 FRA worked with PHMSA on an Emergency Order to address the proper attending and securing of trains. In February 2014, FRA and PHMSA issued another Emergency Order highlighting the importance of proper testing and classification of crude oil prior to shipping, and the importance of using proper packaging for the specific hazardous materials to be transported. The use of these joint orders has been very helpful in gaining immediate attention on problem areas.

In response to recent train accidents involving tank cars carrying crude oil, in January oil industry representatives and rail industry CEOs met with me and Administrators Quarterman, Szabo, and Ferro in a “Call to Action”. At this meeting, the Rail CEOs were asked to develop specific plans and recommendations to immediately improve the safety of crude oil shipments. I sent a letter to the American Association of Railroads (AAR) asking for their help in implementing a series of voluntary actions that would improve the safety of railroads transporting crude oil and the communities they move through. President and CEO Edward Hamberger signed the agreement the same day and support from individual railroads followed shortly.

This “Call to Action” resulted in several important changes that will go a long way in improving safety and I am pleased that our industry partners have joined with us in this critical effort. The AAR agreed to:

- apply hazardous materials routing analysis to trains with 20 or more tank cars loaded with petroleum crude oil, which will help determine the safest and most secure route for the product to travel;
- adhere to speed restrictions for Key Crude Oil Trains (20 or more tank cars filled with petroleum crude oil) and additional speed restrictions if these trains are traveling in high urban areas;
- use distributive power locomotives and other solutions to prevent train pile-ups;
- install wayside defective bearing detectors every 40 miles to prevent equipment-related accidents;
- work with the railroads to develop a list of emergency response resources along Key Crude Oil train routes that can be provided to emergency responders upon request; and
- provide \$5 million to develop and provide training on safe hazardous material transportation.

FRA and PHMSA have also been 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.

The safe transportation of energy products also includes important efforts by FMCSA since trucks play such a pivotal role in the transportation of these materials. During 2014, FMCSA partnered with the North Dakota Highway Patrol, the Federal Railroad Administration, the Pipeline and Hazardous Materials Safety Administration, and the Montana Department of Transportation to conduct several multi-agency “Strike Force” Operations. These “Strike Forces” help to ensure materials are properly classified and motor carriers and drivers are operating safely. A “Strike Force” operation in February 2014 produced nine violations.

Looking Forward

While we are making progress in addressing the new and emerging safety risks associated with the safe transportation of energy products, we recognize that there is more to be done. This is why the President’s 2015 Budget includes a request for a new \$40 million flexible fund to support prevention and response associated with the safe transportation of crude oil. Building on our successful collaborations among the affected Operating Administrations, this funding would be concentrated in one fund and be available to support enhanced inspection levels, investigative efforts, research and data analysis, and testing in the highest risk areas.

This fund will be administered by the Department's Chief Financial Officer and Assistant Secretary for Budget and Programs who will ensure resources are made available to initiatives within the Federal Railroad Administration, Pipelines and Hazardous Materials Safety Administration, and the Federal Motor Carriers Safety Administration. Drawing on their expertise in specific subject areas, the Administrators for each Operating Administration, together with the Assistant Secretary for Research and designated representatives from the offices of the Assistant Secretary for Policy, General Counsel, and the Chief Financial Officer, would jointly serve as a decision-making Board and would be responsible for the effective administration of the fund. Eligible projects would be rapidly reviewed and approved by the Board before funds are transferred to an Operating Administration for implementation. Examples of eligible expenditures of the Safe Transportation of Energy Products Fund would include initiatives such as the following:

- **Data Driven Safety Interventions** – Funding will support the collection and analysis of transportation data on incident, injury, and fatality risks for bulk shipment of flammable liquids by road and rail. This data will be used to define the scope of the problem and to inform efforts/ target funding toward the most effective safety interventions. Constituent modes would make proposals to the Board to secure funding for activities that enhance safety or to respond to current incidents. The Board could choose to prioritize multimodal efforts as appropriate.
- **Additional Safety Personnel** – At this initial establishment phase, the fund would be used to support additional personnel divided between FRA and PHMSA for safety inspection and enforcement personnel to provide the backbone of the multimodal effort for this first year. These resources will conduct inspections, investigations and testing for issues such as tank car performance, commodity classification, and root cause analysis of train derailments.
- **Training and Outreach Efforts** – to improve oil spill emergency response and community preparedness.
- **Robust Regulatory Development** – to focus on the implementation of comprehensive regulatory actions that would provide the industry with a combination of performance metrics and operating standards that will result in enhanced safety practices, more effective rail operations, and improved tank car survivability.
- **Economic Analysis** – to identify and evaluate costs associated with current system-wide risks of bulk shipments by rail as well as analyses of future system needs.
- **NTSB Recommendations** – Funds would also be used to address outstanding and anticipated NTSB recommendations.

The need for this initiative is especially important because the U.S. is now the global leader in crude oil production capacity growth, and because we expect this trend to continue for the foreseeable future.

Conclusion

As our domestic energy production efforts continue to expand, the Department of Transportation will draw on its long history of addressing the safe transportation of hazardous materials and use lessons learned to enhance our efforts in this new emerging area. We will also continue to explore new methods and strategies for ensuring these energy products are moved safely through our cities, towns and neighborhoods. We will continue working with our State and industry partners, to develop practical and workable changes that enhance safety and efficiency, ensuring that we maintain an open dialogue with the public to ensure their concerns are promptly addressed.

Thank you again for the opportunity to meet with you today. I look forward to working with all of you.