

# United States Senate

WASHINGTON, DC 20510

June 10, 2016

The Honorable Anthony R. Foxx  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

The Honorable Shaun Donovan  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20503

Dear Secretary Foxx and Director Donovan:

The June 3, 2016 derailment of 16 tank cars in a 96-car unit train carrying Bakken crude oil near Mosier, Oregon underscores the urgent need for the U.S. Department of Transportation (DOT) to do more to help keep families, communities, and our environment safe. While thankfully no one was hurt, four tank cars caught fire, four were breached, and an estimated 42,000 gallons of crude oil was spilled into the City of Mosier's wastewater system, the soil, and the Columbia River. To better protect our communities and the environment from accidents like this one, we urge you to immediately initiate a rulemaking to mandate comprehensive oil spill response plans for rail carriers.

It is far past the time for the Administration to act on this matter. We have already seen too many major rail accidents involving crude oil throughout the nation, and DOT projects an average of 10 crude oil train derailments to occur each year over the next 20 years. Today, robust requirements are in place for oil spill response plans for pipelines and maritime vessels. Railroads should be treated no differently.

One of the National Transportation Safety Board's recommendations to the Pipeline Hazardous Materials Safety Administration (PHMSA) in January 2014 was to revise the spill response planning thresholds for oil spill response plans to ensure a rail carriers' ability to respond to worst-case discharges resulting from accidents involving unit trains or blocks of tank cars transporting oil and petroleum products.

PHMSA issued an Advanced Notice of Proposed Rulemaking for "Oil Spill Response Plans for High-Hazard Flammable Trains" in July 2014 and received clear direction from Congress in the Fiscal Year 2016 Consolidated Appropriations Act (P.L. 114-113) to begin a rulemaking within 90 days of its December 2015 enactment. Yet PHMSA has failed to do so. In response to questions at hearings and through updates mandated by the Fixing America's Surface Transportation Act (P.L. 114-94), the Administration has stated that PHMSA is expected to publish a Notice of Proposed Rulemaking no later than June 2016 and complete a final rule in June 2017.

The most recent accident and oil spill occurred along the Columbia River within the Columbia River Gorge National Scenic Area, an area protected under federal law since 1986. The Columbia River Gorge is home to several Endangered Species Act-listed species, and provides essential habitat for thousands of other species. The Scenic Area protects unique cultural resources that date back 10,000 years and encompasses an incredible combination of ecosystems, wildlife, farmland, cultural sites, and communities. Over two million annual visitors travel

through the region, attracted to unique recreational and tourist activities. Rail lines cut through the Columbia River Gorge in Oregon and Washington, bisecting this nationally significant area.

Throughout Washington state, rail lines are adjacent to some of our nation's most prized natural resources that are economic drivers for local communities and have supported tribal nations since time immemorial. To protect these irreplaceable assets, we must have robust policies in place to respond when accidents do happen and prevent rail carriers and shippers from placing the response and cleanup burden on local and state agencies.

We strongly urge you to follow the clear direction provided in the Fiscal Year 2016 Consolidated Appropriations Act and again in the Fiscal Year 2017 Transportation, Housing and Urban Development, and Related Agencies Appropriations bill (H.R. 2577) – “Provided, That no later than June 30, 2016, the Secretary of Transportation shall initiate a rulemaking to expand the applicability of comprehensive oil spill response plans, and shall issue a final rule no later than December 18, 2016” – as passed by the U.S. Senate on May 19, 2016. Our constituents are counting on this rulemaking to update outdated regulations and better protect their communities and the environment.

Sincerely,



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Patty Murray  
United States Senator



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Maria Cantwell  
United States Senator