

JAY INSLEE  
Governor



**STATE OF WASHINGTON**  
Office of the Governor

September 30, 2014

The Honorable Anthony Foxx  
Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, DC 20590

Dear Secretary Foxx:

On behalf of Washington State, I would like to thank you for expediting new rules to address safety and spill response regarding the transportation of crude oil by rail. The transportation of hazardous materials, like Bakken crude, poses a significant risk to public safety, the environment and areas of significant cultural heritage. These risks are especially prevalent in Washington where we have seen an exponential increase in the transportation of crude oil by rail.

As you know, federal preemption hampers the ability of states to respond to these new challenges making your rule update all the more important to Washingtonians. As you review the enclosed comments from my agencies, I urge you to act swiftly to resolve the current concerns about the transportation of Bakken crude oil.

Specifically, we support a quicker phase out of the T-111 tanks cars that are inadequate for transporting high-hazard materials. We appreciate the move towards safer cars but urge that the T-111 cars not be used for high-hazard material like Bakken crude after October 2016. In addition, trains carrying high-hazard material should move no faster than 40 miles per hour through populated areas. Special consideration should also be given to environmentally sensitive areas like the Columbia River Gorge or those of significant cultural importance, such as usual and accustomed tribal fishing areas.

With respect to oil spill response planning for high-hazard trains, we recommend that the threshold to trigger comprehensive spill response plans be set at 3,500 gallons and that planning standards be similar for those already established for marine transport. Washington has a comprehensive spill prevention response program for Puget Sound that should serve as a model for rail transport. In addition, spill response plans need to be made available to local emergency response planners and should apply to all oil transport, not just high-hazard trains. Finally, federal rulemaking should confirm that the Clean Water Act savings clause preserves state authority to require that railroads submit contingency plans.

The help of your department will be critical in ensuring the safety of our citizens and protection of our environment as unprecedented amounts of crude oil move along rail lines across the country.



The Honorable Anthony Foxx  
September 30, 2014  
Page 2

In concert with your actions, I have directed my state agencies to provide me with recommendations for state action on this issue in advance of our next legislative session. Let us share a commitment to the people of Washington that public safety and protection of our natural resources come first as we both move to address this new challenge.

Very truly yours,



Jay Inslee  
Governor

Enclosures (2)

1. Washington State Agency Comments. Docket No. PHMSA-2012-0082 (HM-251) Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains - Notice of Proposed Rulemaking.
2. Washington State Agency Comments. Docket No. PHMSA-2014-0105 (HM-251B), Hazardous Materials: Oil Spill Response Plans for High-Hazard Flammable Trains - Advanced Notice of Proposed Rulemaking.