**UNITED STATES DEPARTMENT OF TRANSPORTATION**

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| Petroleum Crude Oil Railroad Carriers | ) | |
| | ) | Docket No. DOT-OST-2014-0067 |

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**EMERGENCY RESTRICTION/PROHIBITION ORDER**

This notice constitutes an Emergency Restriction/Prohibition Order (Order) by the United States Department of Transportation (DOT; Department) pursuant to 49 U.S.C. 5121(d). This Order is issued to all railroad carriers that transport in a single train in commerce within the United States, 1,000,000 gallons or more of UN 1267, Petroleum crude oil, Class 3,[1] sourced from the Bakken shale formation in the Williston Basin (Bakken crude oil). By this Order, DOT is requiring that each railroad carrier provide the State Emergency Response Commission (SERC) for each state in which it operates trains transporting 1,000,000 gallons or more of Bakken crude oil, notification regarding the expected movement of such trains through the counties in the state. The notification shall identify each county, or a particular state or commonwealth's equivalent jurisdiction (e.g., Louisiana parishes, Alaska boroughs, Virginia independent cities) (county), in the state through which the trains will operate.

Upon information derived from recent railroad accidents and subsequent DOT investigations, the Secretary of Transportation (Secretary) has found that an unsafe condition or an unsafe practice is causing or otherwise constitutes an imminent hazard to the safe transportation of hazardous materials. Specifically, a pattern of releases and fires involving petroleum crude oil

[1] As described by 49 CFR 172.101.

shipments originating from the Bakken and being transported by rail constitute an imminent hazard under 49 U.S.C. 5121(d).

**EFFECTIVE IMMEDIATELY ANY RAILROAD CARRIER IDENTIFIED BY THIS ORDER:**

Shall, within 30 days of the date of this Order, provide certain information in writing to the SERC in each state in which the railroad carrier operates trains transporting 1,000,000 gallons or more of Bakken crude oil. The contact information for each SERC is located on the U.S. Environmental Protection Agency's (EPA) website related to the Emergency Planning and Community Right-to-Know Act of 1986 (ECPRA).[2] If notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil in that state until such notification is provided. The notification must provide information regarding the estimated volumes and frequencies of train traffic implicated. Specifically, the notification must: (a) provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel, per week, through each county within the state; (b) identify and describe the petroleum crude oil expected to be transported in accordance with 49 CFR part 172, subpart C; (c) provide all applicable emergency response information required by 49 CFR part 172, subpart G; and, (d) identify the routes over which the material will be transported. This notification also must identify at least one point of contact at the railroad (including name, title, phone number and address) responsible for serving as the point of contact for SERCs and relevant emergency responders related to the railroad's transportation of Bakken crude oil. To ensure that the information provided to a SERC remains reliable, railroad carriers shall update notifications prior to making any material changes in the estimated volumes or frequencies of trains traveling through a county. Railroad carriers must assist the SERCs as

[2] http://www2.epa.gov/epcra/state-emergency-response-commissions-contacts.

necessary to aid in the dissemination of the information to the appropriate emergency responders in affected counties. Copies of railroad notifications to SERCs must be made available to the DOT's Federal Railroad Administration (FRA) upon request. This Order does not preclude railroad carriers from taking any additional steps to communicate with state and local emergency responders regarding the transportation of hazardous materials or any other commodities within a state or local jurisdiction.

This Order applies to all railroad carriers who transport 1,000,000 gallons or more of Bakken crude oil in a single train in commerce within the United States, and its officers, directors, employees, subcontractors, and agents. This Order is effective immediately and remains in effect unless withdrawn in writing by the Secretary, or until it otherwise expires by operation of regulation and/or law.

## I. Authority

The Secretary of Transportation has the authority to regulate the transportation of petroleum crude oil in commerce. 49 U.S.C. 5103(b). The Secretary of Transportation has designated petroleum crude oil, UN 1267, 3, Packing Group I, II, or III, as a hazardous material subject to the requirements of DOT's Hazardous Materials Regulation (HMR) (49 CFR parts 171 to 180). 49 U.S.C. 5121(d); 49 U.S.C. 5103(a). Commerce is as defined by 49 U.S.C. 5102(1) and 49 CFR 171.8, and "transportation" or "transport" are as defined by 49 U.S.C. 5102(13) and 49 CFR 171.8. A "railroad" is as defined by 49 CFR 171.8. Accordingly, railroads that transport petroleum crude oil in commerce by rail are subject to the authority and jurisdiction of the Secretary, including the authority to impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for hearing, to the extent necessary to abate the imminent hazard. 49 U.S.C. 5121(d).

## II. Background/Basis for Order

An imminent hazard, as defined by 49 U.S.C. 5102(5), constitutes the existence of a condition relating to hazardous materials that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk that death, illness, injury or endangerment.

The number and type of petroleum crude oil railroad accidents described below that have occurred during the last year is startling, and the quantity of petroleum crude oil spilled as a result of those accidents is voluminous in comparison to past precedents. Due to the volume of crude oil currently being shipped by railroads, the demonstrated recent propensity for rail accidents involving trains transporting crude oil to occur, and the subsequent releases of large quantities of crude oil into the environment and the imminent hazard those releases present, this Order requires that railroads take the action described above to assist emergency responders in mitigating the effects of accidents involving petroleum crude oil trains. Releases of petroleum crude oil, subsequent fires, and environmental damage resulting from such releases represent an imminent hazard as defined by 49 U.S.C. 5102(5), presenting a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur.

### A. Recent Crude Oil Incidents

The United States has experienced a rapid growth in the quantity of petroleum crude oil being shipped by rail in recent years. The growth has largely been sparked by developments in North Dakota, where the Bakken formation in the Williston Basin has become a major source of crude oil in the United States. Much of the Bakken crude oil is shipped via rail to refineries located

near the U.S. Gulf Coast or to pipeline connections, most notably to connections located in Oklahoma.[3]

Shipping hazardous materials is inherently dangerous. Transporting petroleum crude oil can be problematic if the crude oil is released into the environment because of its flammability. This risk of ignition is compounded in the context of rail transportation because petroleum crude oil is commonly shipped in unit trains that may consist of over 100 loaded tank cars. With the rising demand for rail carriage of petroleum crude oil[4] throughout the United States, the risk of rail incidents increases along with the increase in the volume of crude oil shipped. There have been several significant derailments in the U.S. and Canada over the last ten months causing deaths and property and environmental damage that involved petroleum crude oil shipments. These accidents have demonstrated the need for emergency action to address unsafe conditions or practices in the shipment of petroleum crude oil by rail.

Most recently, on April 30, 2014, an eastbound CSX Transportation, Inc. (CSX) unit train consisting of 105 tank cars loaded with petroleum crude oil derailed in Lynchburg, Virginia. Seventeen of the train's cars derailed, and one of the tank cars was breached. A petroleum crude oil fire ensued, and emergency responders evacuated approximately 350 individuals from the immediate area. Three of the derailed tank cars containing petroleum crude oil came to rest in the adjacent James River, spilling up to 30,000 gallons of petroleum crude oil into the river. The National Transportation Safety Board (NTSB) and DOT are both investigating this accident.

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[3] See Association of American Railroads' (AAR) December 2013 paper "Moving Crude Oil by Rail", available online at: https://www.aar.org/keyissues/Documents/Background-Papers/Crude-oil-by-rail.pdf.

[4] In 2011 there were 65,751 originations of tank car loads of crude oil. In 2012, there were 233,811 originations. *Id.*

On December 30, 2013, 13 cars in a westbound BNSF Railway (BNSF) grain train derailed near Casselton, North Dakota,[5] fouling an adjacent main track. At the same time, an eastbound BNSF petroleum crude oil unit train with 106 cars was operating on that adjacent main track. The petroleum crude oil unit train reduced its speed but collided with the derailed car that was fouling the main track, resulting in the derailment of the lead locomotives and the first 21 cars of the petroleum crude oil unit train. Eighteen of the 21 derailed tank cars ruptured, and an estimated 400,000 gallons of petroleum crude oil was released. The ruptured tank cars ignited, causing a significant fire. Approximately 1,400 people were evacuated. Damages from the derailment have been estimated at $8 million.

On November 8, 2013, a 90-car petroleum crude oil train operated by Alabama & Gulf Coast Railway derailed in a rural area near Aliceville, Alabama. The petroleum crude oil shipment originated in North Dakota, and was bound for Walnut Hill, Florida, to be transported by a regional pipeline to a refinery in Saraland, Alabama. Twenty-six cars derailed, resulting in eleven cars impinged by a crude oil pool fire. An undetermined amount of petroleum crude oil escaped from derailed cars and found its way into wetlands area nearby the derailment site. Clean up costs are estimated at $3.9 million.

On July 6, 2013, a catastrophic railroad accident involving a U.S. railroad company occurred in Lac-Mégantic, Quebec, Canada, when an unattended freight train transporting petroleum crude oil rolled down a descending grade and subsequently derailed.[6] The subsequent fires, along with other effects of the accident, resulted in the confirmed deaths of 47 individuals. In addition, the

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[5] This derailment currently is being investigated by the National Transportation Safety Board (NTSB), and information regarding this incident can be found at the NTSB website. See http://www.ntsb.gov/doclib/reports/2014/Casselton_ND_Preliminary.pdf.

[6] This derailment currently is being investigated by the Transportation Safety Board of Canada and information regarding this incident can be found at the TSB website. See http://www.bst-tsb.gc.ca/eng/enquetes-investigations/rail/2013/R13D0054/R13D0054.asp.

derailment caused extensive damage to the town center, a release of hazardous materials that will require substantial clean-up costs, and the evacuation of approximately 2,000 people from the surrounding area.

### B. DOT Actions and Investigations

In the wake of these and other events, PHMSA and FRA have taken a number of steps to increase the safety of petroleum crude oil shipments by rail. Following the Lac-Mégantic derailment, FRA issued Emergency Order No. 28 (EO 28), which established certain securement requirements for unattended trains and rail equipment, including petroleum crude oil unit trains. EO 28 remains in effect until further notice by FRA. In addition, on August 7, 2013, PHMSA and FRA issued Safety Advisory 2013-06, which made a number of safety-related recommendations to railroads and hazardous materials offerors operating in the United States, including the recommendation that offerors evaluate their processes to ensure that hazardous materials are properly classed and described in accordance with the HMR, and the recommendation that offerors and carriers conduct reviews of their safety and security plans. On August 27-28, 2013, FRA and PHMSA held a public meeting with industry stakeholders to solicit input on a comprehensive review of safety regulations contained in 49 CFR part 174 applicable to the safe transportation of hazardous materials by rail. PHMSA and FRA have initiated a rulemaking (RIN 2137-AF07) to address comments received as a result of the public meeting.

On August 29, 2013, FRA convened an emergency session of the Railroad Safety Advisory Committee (RSAC). RSAC is a group composed of railroad industry, labor, and governmental representatives who develop recommendations on new regulatory standards and other rail safety programs. During the emergency meeting, RSAC established three collaborative working groups to formulate new rulemaking recommendations regarding hazardous materials transportation by rail,

appropriate train crew sizes, and train securement procedures. Each of these working groups has met on a regular basis and has now finished with its work. DOT has initiated rulemaking proceedings as appropriate to codify in Federal regulation certain of the items discussed by the working groups.

On September 6, 2013, PHMSA issued an Advanced Notice of Proposed Rulemaking (ANPRM (HM-251); 78 FR 54849) to solicit comments on petitions for rulemaking and NTSB recommendations related to rail hazmat safety, including regulations for DOT specification tank cars most commonly used to move crude oil by rail. The comment period closed on December 5, 2013, and PHMSA received nearly 150 substantive comments representing over 150,000 stakeholders. PHMSA, in cooperation with FRA, has developed a comprehensive Notice of Proposed Rulemaking (NPRM). The NPRM is titled: PHMSA-2012-0082 (HM-251; RIN 2137-AE91): Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains. The NPRM is under review by the Office of Management and Budget pursuant to Executive Order 12866. (See http://www.reginfo.gov/public).

PHMSA and FRA issued a supplementary safety advisory, Safety Advisory 2013-07, on November 20, 2013, to emphasize the importance of proper characterization, classification, and selection of a packing group for Class 3 materials (flammable liquids, including petroleum crude oil), and to reinforce the need to follow the Federal hazardous materials regulations for safety and security planning. On January 2, 2014, PHMSA issued a 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. Further, noting that mined natural resources, such as crude oil, may have widely variable chemical

compositions and properties, the Safety Alert noted that crude oil being transported from the Bakken region of North Dakota may be more flammable than traditional heavy crude oil.

On January 16, 2014, the Secretary met with members of the rail and the petroleum industries in a Call to Action to address the risks associated with the transportation of crude oil by rail. As a result, on February 21, 2014, the Secretary of Transportation sent a letter to the President and Chief Executive Officer at the AAR requesting that he and his members subscribe to voluntary actions to improve the safe transportation of crude oil by rail. These include: speed restrictions, braking signal propagation systems, routing analyses, additional track and rail integrity inspections, more frequent mechanical inspections, development of an emergency response inventory, funding for emergency responder training, and continued communication with communities about the hazards of crude oil being transported by rail. To date, all Class I railroads have subscribed to the voluntary actions and several more have expressed their intent to sign.

On February 25, 2014, DOT issued an Emergency Order requiring all shippers to test product from the Bakken to ensure the proper classification of crude oil in accordance with the HMR before it is transported by rail, while also prohibiting the transportation of crude oil in the lowest-strength packing group. That Emergency Order was issued, in part, out of concerns over proper classification and packaging of petroleum crude oil that are under investigation as part of DOT's Operation Classification, also known as the "Bakken Blitz." On March 6, 2014, DOT issued an amended emergency order replacing the February 25 Emergency Order.[7] The Amended Emergency Order is still in effect.

Notwithstanding the above DOT actions, in light of continued risks associated with petroleum crude oil shipments by rail, the further actions described in this Order are necessary to

[7] The Amended Emergency Order addressed shipments already in transportation at the time of the emergency order's issuance. http://www.dot.gov/sites/dot.gov/files/docs/Amended%20Emergency%20Order%20030614.pdf.

eliminate unsafe conditions and practices that create an imminent hazard to public health and safety and the environment.

### C. Railroad-Provided Emergency Responder Information to State Emergency Response Commissions

Due to the volume of crude oil being shipped by railroads, the demonstrated recent propensity for rail accidents involving trains transporting crude oil to occur, and the subsequent releases of large quantities of crude oil into the environment and the imminent hazard those releases present, the Order is requiring that each railroad carrier notify the SERC for each state in which it operates regarding the expected movement of trains transporting 1,000,000 gallons or more of Bakken crude oil through each county in that state.

As prior accidents demonstrate, prompt and effective emergency response to any hazardous materials release is critical. The HMR require offerors of hazardous materials to provide appropriate emergency response information applicable to the specific hazard or hazards of the material being offered for transportation and the HMR require that this information be maintained and immediately available to any person who, as a representative of a Federal, state or local government agency, responds to an incident. See 49 CFR 172. 200-.205 and 172.600-606. See also 49 CFR 130.11 (pertaining to oil in particular).

Given the unique hazardous characteristics of Bakken crude oil and the risks presented by large quantities of this commodity being transported in single trains, additional communication between railroads and emergency responders is necessary to ensure that the emergency responders are prepared to respond to an incident involving a train carrying a large quantity of petroleum crude oil. Currently, state and local emergency responders may not know if, or how many, such trains transporting large quantities of Bakken crude oil are moving through their jurisdiction until after an incident with a train has been reported. Because state and local emergency responders are

typically the first to arrive on any accident scene, before any railroad response personnel or any Federal official, it is essential that these individuals be as well-informed as possible as to the presence of trains carrying large quantities of Bakken crude oil within their jurisdictions. Accordingly, to help state and local emergency responders best be able to protect life, property, and the environment in the event of a derailment, this Order requires that a railroad carrier transporting 1,000,000 gallons or more of Bakken crude oil notify, in writing, the SERC in each state in which it operates these trains of the expected movement of the trains through each county in that state.

DOT has determined that, for purposes of this Order, the 1,000,000 gallon threshold is appropriate to trigger the written notification requirement. Considering the typical 30,000-gallon capacity railroad tank car used for the transport of petroleum crude oil, a 1,000,000-gallon threshold for a unit train would require a comprehensive response plan being required for unit trains composed of approximately 35 cars of petroleum crude oil.[8] This is a reasonable threshold when considering that the aforementioned incidents all involved trains consisting of more than 70 railroad tank cars carrying petroleum crude oil, or well above the Order's threshold of 1,000,000 gallons or more of petroleum crude oil being transported in a single train. In setting this threshold quantity of 1,000,000 gallons, DOT has also relied on a Federal Water Pollution Control Act mandate for regulations requiring a comprehensive spill response plan to be prepared by an owner or operator of an onshore facility.[9] For purposes of addressing an imminent hazard, that threshold amount of petroleum crude oil also ensures DOT is assisting local emergency responders to be prepared for the

[8] This approximation assumes that the tank cars would not be entirely filled to capacity.
[9] See 40 CFR 112.20. The Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, directs the President, at section 311(j)(1)(C) (33 U.S.C. 1321(j)(1)(C)) and section 311(j)(5) (33 U.S.C. 1321(j)(5)), respectively, to issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges."

type of accidents that have been occurring regularly, and represent the greatest risks to public safety and the environment with regard to the transportation of Bakken crude oil. Further, this threshold amount of Bakken crude oil ensures that DOT is not unnecessarily imposing safety-related burdens on lesser risks that have not, to date, proven to represent the same safety and environmental concerns.

DOT has determined that SERCs are the most appropriate point of contact to convey written notifications regarding the transportation of trains transporting large quantities of Bakken crude oil. Each state has a designated SERC in accordance with the requirements of the ECPRA, which was created to help local entities plan for emergencies involving hazardous substances.[10] Generally, SERCs are responsible for supervising and coordinating with the local emergency planning committees (LEPC) in states, and are best situated to convey information regarding hazardous materials shipments to LEPC's and state and local emergency response agencies. This Order requires that railroad carriers, to the extent reasonably practicable, assist SERCs as necessary in responding to any requests for information from local emergency response agencies regarding the volume and frequency of train traffic implicated by this Order within that agency's jurisdiction.

Written notification containing the required information to states in which trains affected by this Order operate must be made within 30 days of the effective date of this Order. If initial notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil through that state until such notification is provided. This notification must reflect the expected volume and frequency of train traffic implicated in each county in a particular state, with updated notifications required to be made when there is a material change in the volume of those trains. DOT is aware that the nature of freight railroad operations does not make it possible in many instances to

[10] http://www2.epa.gov/epcra.

estimate the exact number of trains implicated by this Order that will travel over a particular route in a specified time period. Thus, this Order requires that railroads make a reasonable estimate as to the number of implicated trains expected to travel through a county per week, and to update the notification whenever a significant increase or decrease in that estimated number occurs. For purposes of complying with the requirements of this Order, DOT considers any increase or decrease of twenty-five percent or more in the number of implicated trains per week to be a material change. In making these notifications to SERCs, railroads must identify that Bakken crude oil is the commodity involved, and convey the applicable petroleum crude oil emergency response information that is required by 49 CFR part 172, subpart G in the notice. The railroad's notice to the SERCs must identify the routes over which the material will be transported through each affected county in a state. The above requirements will enable SERCs, and accordingly, state and local emergency responders, to have a reasonable expectation of the petroleum crude oil train traffic, and prepare accordingly for the possibility of an accident involving a train transporting a large quantity of Bakken crude oil.

In addition, railroads must also identify at least one point of contact (including name, title, phone number and address) at the railroad responsible for serving as the railroad's point of contact for state and local emergency response agencies on issues related to the transportation of Bakken crude oil through their jurisdictions. This point of contact must be communicated in the notice to the SERCs so that a jurisdiction may contact the railroad to obtain information regarding the transportation of large quantities of Bakken crude oil via rail. Copies of the written notification to SERCs must be made available upon request to FRA. FRA will audit railroad compliance with this Order by reviewing the notices that railroads provide to SERCs to ensure the accuracy of those notices, and also to ensure that state and local emergency responders are able to communicate with

the railroad contact identified in the written notification when necessary.

Nothing in this Order precludes railroad carriers from taking any additional steps to communicate with state and local emergency responders regarding the transportation of hazardous commodities within a state or local jurisdiction. If a railroad carrier has existing methods of communications with first responders along affected routes, DOT encourages railroads carrier to also continue to utilize those existing methods of communication.

To further enhance emergency response efforts, DOT is also recommending that railroads continue to commit resources to develop specialized crude oil by rail training and tuition assistance program for local first responders. Through the Transportation Community Awareness and Emergency Response (TRANSCAER®) program[11] and other initiatives, the railroad and hazardous materials shipping industries collaborate and cooperate with communities through which hazardous materials are transported. For example, in accordance with Association of American Railroads (AAR) Circular OT-55-N, railroads are to assist in implementing TRANSCAER's outreach program to improve community awareness, emergency planning and incident response for the transportation of hazardous materials. The same industry standard provides for the disclosure of certain commodity flow data upon request to local emergency response agencies and planning groups.

In response to the Secretary's recent "Call to Action," the rail and shipping industries have renewed their commitment to the TRANSCAER® program and have agreed to conduct additional outreach and training to local emergency responders in jurisdictions through which crude oil is

[11] www.transcaer.com

transported in large quantities.[12] At the same time, industry has committed to providing additional funding for emergency response resources for local emergency responders, and to continued communication with communities about the hazards of crude oil being transported by rail. DOT views these efforts as supporting the emergency response capability planning requirement.

### D. Remedial Action

Within 30 days of this Order, to abate this imminent hazard, each affected railroad carrier shall, within 30 days of the date of this Order, notify the SERC in each state in which the railroad carrier operates trains transporting 1,000,000 gallons or more of Bakken crude oil. The contact information for each SERC is on the U.S. EPA's website related to the ECPRA as discussed above. If notification is not made to a SERC within 30 days of the date of this Order, a railroad is prohibited from operating any train transporting 1,000,000 gallons or more of Bakken crude oil in that State until such notification is provided. This notification must provide information regarding the estimated volumes and frequencies of train traffic implicated. Specifically, this notification must: (a) provide a reasonable estimate of the number of trains implicated by this Order that are expected to travel, per week, through each county within the state; (b) identify and describe the petroleum crude oil being transported in accordance with 49 CFR part 172, subpart C; (c) provide all applicable emergency response information required by 49 CFR part 172, subpart G; and, (d) identify the route over which the material will be transported. This notification also must identify at least one point of contact at the railroad (including name, title, phone number and address) responsible for serving as the point of contact for SERCs and local emergency responders related to the railroad's transportation of Bakken crude oil. To ensure that the information provided to a SERC remains reliable, railroad carriers shall update notifications

[12] See February 21, 2014 letter from Secretary Anthony Foxx to President and Chief Executive Officer of the Association of American Railroads Ed Hamberger. http://www.dot.gov/briefing-room/letter-association-american-railroads

prior to making any material changes – defined as any increase or decrease of twenty-five percent or more – in the estimated number of trains per week transporting 1,000,000 gallons or more of Bakken crude oil through local communities. Railroad carriers must assist the SERCs as necessary in disseminating the information to local emergency responders in affected counties. Copies of railroad notifications to SERCs must be made available to the FRA upon request.

**E. Rescission of Order**

This Order remains in effect until the Secretary determines that an imminent hazard no longer exits or a change in applicable statute or Federal regulation occurs that supersedes the requirements of the Order, in which case the Secretary will issue a Rescission Order.

**F. Failure to Comply**

Any railroad carrier or person failing to comply with this Emergency Order is subject to civil penalties of up to $175,000 for each violation or for each day it is found to be in violation (49 U.S.C. 5123). A person willfully or recklessly violating this Emergency Order is also subject to criminal prosecution, which may result in fines under title 18, imprisonment of up to ten years, or both (49 U.S.C. 5124).

**G. Right to Review**

Pursuant to 49 U.S.C. 5121(d)(3) and in accordance with section 554 of the Administrative Procedure Act (APA), 5 U.S.C. 500 *et seq*, a review of this action may be filed. Any petition seeking relief must be filed within 20 calendar days of the date of this order (49 U.S.C. § 5121 (d)(3)), and addressed to: Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Please include the docket number of this Emergency Order in your petition, and state the material facts at issue which you believe disputes the existence of an imminent hazard and must include all evidence and exhibits to be considered.

The petition must also state the relief sought. Within 30 days from the date the petition for review is filed, the Secretary must approve or deny the relief in writing; or find that the imminent hazard continues to exist, and extend the original Emergency Order. In response to a petition for review, the Secretary may grant the requested relief in whole or in part; or may order other relief as justice may require (including the immediate assignment of the case to the Office of Hearings for a formal hearing on the record.

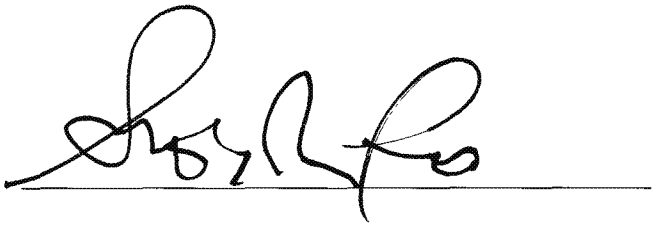
## III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public. DOT has determined that this Emergency Order imposes new information collection requirements. FRA will be publishing a Paperwork Reduction Act notice for comment, following publication of this order.

## IV. Emergency Contact Officials

If you have any questions concerning this Emergency Order, you should contact the U.S. Department of Transportation at (202) 493-6245.

Dated: May 7, 2014



Anthony R. Foxx
Secretary of Transportation



EX-0248-000017-TSS