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June 16, 2016

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

Dear Secretary Foxx:

The recent derailment and burning of a Union Pacific train carrying Bakken crude oil in Mosier, Oregon, was another sobering reminder of the risks presented by oil trains. This incident was hazardous enough, but it could have been catastrophic. Fortuitous circumstances combined with capable emergency response averted a tragedy but also serve as a call to action.

As you know, the dramatic and rapid increase in Canadian and domestic oil production and commensurate transport by rail has spurred increased safety and emergency response measures from my state and your agency.

Last year in Washington State, we passed legislation to increase track and hazmat inspections, require oil spill contingency plans, increase funding for prevention and clean-up of oil spills, require railroads to notify local officials when oil trains are moving through their areas and improve safety at crossings along oil train routes.

But states are limited in what we can do. Federal preemption severely limits our ability to respond to the emerging challenges resulting from increased oil train traffic. In September 2014, I wrote to you requesting swift action on rules to more quickly phase out the use of T-111 tank cars that are inadequate for transporting high-hazard materials such as Bakken crude, and to limit speeds of trains carrying high-hazard material to 40 miles per hour through populated areas or areas like the Columbia River Gorge, where the Mosier derailment took place. In addition, I requested more robust spill response plans and confirmation of states' authority to require contingency plans from railroads.

Your agency adopted a rule last year that made some improvements in federal law, but it simply did not go far enough in addressing the safety risks related to oil-by-rail transportation. USDOT must do more, and I am asking your department and its agencies for six specific safety improvements:

- The USDOT and shippers must speed up the transition to safer cars. Crude oil is volatile, particularly Bakken crude. Many current tank cars are simply not strong enough to protect volatile contents from the heat of a fire or the impact of a collision. Yet, USDOT has allowed tank car manufacturers a decade to retire existing fleets and introduce a new tank car design. That timeline can be cut in half, with new designs ready by 2020 or 2021.

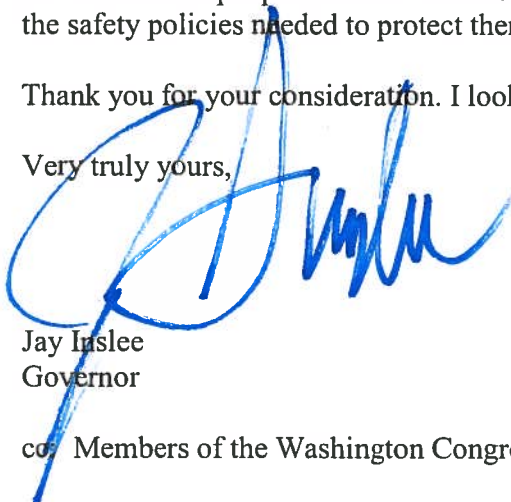


- Federal authorities must establish lower train speed limits. Currently, only they can set maximum speeds, and for “high-hazard flammable trains” that’s 50 mph. While some railroads voluntarily limit speeds to 35 mph for oil trains in large cities, no such commitments extend to rural areas or communities the size of Mosier.
- Federal authorities must ensure that electronic braking requirements outlined in USDOT’s recent tank car rule remain in effect despite litigation and the cost-benefit analysis required by Congress.
- States need assurance that the costs of these disasters are not borne by our communities. The railroads continue to seek liability caps to shield themselves from these costs.
- The federal government must restrict the use of railroad tracks for storage of volatile materials. At times, thousands of tank cars loaded with crude oil are used not for transportation, but for storage, sitting unattended for weeks or months on unused track. Residents of Snohomish County, Washington, recently expressed to state regulators serious safety concerns of unattended oil cars sitting within 1,200 feet of an elementary school.
- USDOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) needs to move expeditiously to finalize rules that expand and strengthen requirements for railroad oil spill response plans. Importantly, this rule must contain a savings clause that clearly preserves and confirms state authority to adopt requirements for response plans from railroads.

I urge you to consider these important safety, prevention and response actions that are within the purview of your department. We are not dealing with theoretical risks, but real threats driven by observed accidents and dramatic increases in oil-by-rail transportation across the country. The concerns of the people who live and work near oil train routes can no longer be brushed aside, and the safety policies needed to protect them can no longer be postponed.

Thank you for your consideration. I look forward to your response.

Very truly yours,



Jay Inslee  
Governor

cc: Members of the Washington Congressional Delegation