



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

July 7, 2010

The Honorable John D. Rockefeller IV
Chairman
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. No. 108-426), in Section 6(b)(1), requires the U.S. Department of Transportation to submit periodic reports describing specific actions taken to implement open statutory mandates regarding pipeline and hazardous materials transportation safety. The enclosed report, "Open Statutory Mandates Regarding Pipeline and Hazardous Materials Safety," fulfills that requirement.

With safety as our highest priority, the Department continues to pursue implementation of open statutory mandates for our pipeline and hazardous materials safety programs. Further regulatory actions are pending on two open hazardous materials safety statutory mandates, as described more fully in the enclosed report. The Department will continue to work diligently and expeditiously to complete implementation of these mandates.

A similar response has been sent to the Ranking Member of the Senate Committee on Commerce, Science, and Transportation, the Chairman and Ranking Member of the House Committees on Transportation and Infrastructure, and the Chairman and the Ranking Member of the House Committee on Energy and Commerce.

Sincerely yours,

Ray LaHood

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Enclosure



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

July 7, 2010

The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510

Dear Senator Hutchison:

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July 7, 2010

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

July 7, 2010

The Honorable John L. Mica
Ranking Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Mica:

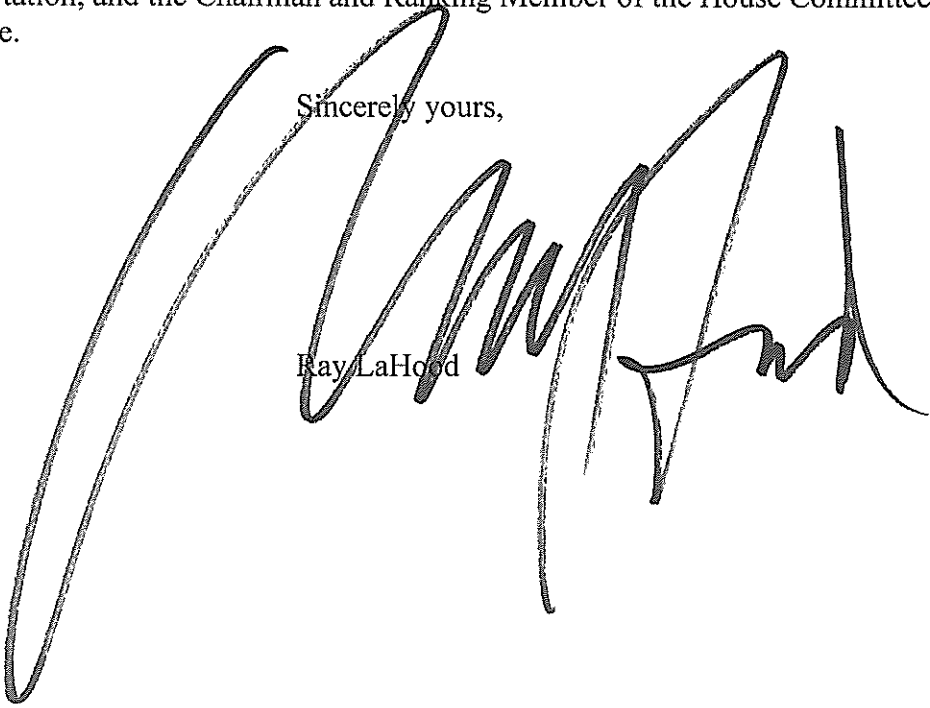
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July 7, 2010

The Honorable Henry A. Waxman
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

July 7, 2010

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Barton:

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Enclosure

**Open Statutory Mandates Regarding
Pipeline and Hazardous Materials Safety**

A Report to Congress Required by Pub. L. No. 108-426

**U.S. Department of Transportation
February 2010**

Open Statutory Mandates Regarding Pipeline and Hazardous Materials Safety

February 2010

Legislative Report Requirement

The Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. No. 108-426), in section 6(b)(1), "Reports by the Secretary – Statutory Mandates," directs the Secretary to transmit a report to certain congressional committees identifying specific actions taken by the U.S. Department of Transportation (DOT) to implement open statutory mandates concerning pipeline and hazardous materials safety that had not been implemented as of the date of enactment of the Act. Specifically, the Act states:

(b) REPORTS BY THE SECRETARY.—

(1) STATUTORY MANDATES.— Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

Summary

As of this report, DOT documents the following:

- Two open hazardous materials transportation safety statutory mandates—one assigned to the Federal Railroad Administration (FRA) and one assigned to the Federal Motor Carrier Safety Administration (FMCSA).

The DOT will continue to work diligently with all interested parties to implement open statutory mandates. The hazmat mandates and the specific actions currently in progress to close them are detailed below.

The open hazardous materials safety statutory mandates are found in the following acts of Congress:

- Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. No. 101-615; November 16, 1990); and
- USA Patriot Act of 2001 (Pub. L. No. 107-56; October 26, 2001).

Report Contact

Questions regarding the contents of this report may be directed to the following office:

Office of Governmental, International, and Public Affairs
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE (East Bldg.)
Washington, DC 20590
(202) 366-4831
(202) 366-7431 (fax)

DOT Actions to Implement Open Hazardous Materials Transportation Safety Statutory Mandates
Status as of February 2010

| Act and Section | Open Mandate | Status |
|---|--|--|
| <p>Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. No. 101-615; November 16, 1990)</p> <p><i>Sec. 15: Transportation of Highly Radioactive Materials (49 U.S.C. § 5105 (b))</i></p> | <p>(a) In consultation with the Department of Energy and the Nuclear Regulatory Commission, potentially affected States and Native American tribes and shippers of high-level radioactive waste and spent nuclear fuel, study the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (dedicated trains) compared to the safety of using other methods of rail transportation, and report the results to Congress.</p> <p>(b) Consider the findings of the Railroad Transportation Study and amend existing regulations, as appropriate, to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train.</p> | <p>(a) The FRA's final report was delivered to Congress on September 27, 2005. This section of the mandate is completed; however, the mandate will not be closed until section (b) below is completed.</p> <p>(b) The FRA has completed needed research on the optimal train consist makeup for trains transporting high-level radioactive waste and spent nuclear fuel. The FRA expects to have a Notice of Proposed Rulemaking (NPRM) into the clearance process by Fall, 2010, with the NPRM issuance and publication to follow.</p> |
| <p>USA PATRIOT Act of 2001 (Pub. L. No. 107-56; October 26, 2001)</p> <p><i>Sec. 1012: Limitation on Issuance of Hazmat Licenses (49 U.S.C. § 31305 (a)(5))</i></p> | <p>States may not issue licenses to operate motor vehicles transporting hazardous materials in commerce, unless the Secretary of Transportation has determined through a background check that the individual does not pose a security risk.</p> | <p>The FMCSA and the Transportation Security Administration (TSA) engaged in joint rulemaking initiatives. On May 5, 2003, both FMCSA and TSA issued Interim Final Rules (IFRs). The FMCSA's regulation is a companion to the TSA IFR. Since May 2003, additional IFRs have been issued by TSA with companion IFRs issued by FMCSA. The latest of these were issued in November 2004 and April 2005. The intent was that FMCSA would proceed with a final rule once TSA finalized its regulation. The TSA has recently confirmed that they do not plan to issue a final rule. FMCSA is exploring legal options regarding finalizing their companion rule when the primary rule is still an interim final rule.</p> |