



Office of the Chairman

National Transportation Safety Board

Washington, DC 20594

December 12, 2014

Mr. Timothy P. Butters
Acting Administrator
Pipeline and Hazardous Materials Safety
Administration
Washington, DC 20590

Dear Acting Administrator Butters:

Thank you for your November 4, 2014, letter to the National Transportation Safety Board regarding Safety Recommendations R-12-5 and -6, and R-14-4 through -6. We issued Safety Recommendations R-12-5 and -6 to the Pipeline and Hazardous Materials Safety Administration (PHMSA) on March 2, 2012, as a result of our investigation of the June 19, 2009, train derailment in Cherry Valley, Illinois.

R-12-5

Require that all newly-manufactured and existing general service tank cars authorized for transportation of denatured fuel ethanol and crude oil in PGs I and II have enhanced tank head and shell puncture resistance systems and top fittings protection that exceed existing design requirements for DOT Specification 111 tank cars.

We reviewed your August 1, 2014, notice of proposed rulemaking (NPRM), *Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains* [HFFT's], and on September 29, 2014, we submitted our comments on it. Your November update letter did not address those comments, and we would appreciate learning your position regarding them.

Pending our receipt of such information, we again strongly urge you to require a retrofit for top fittings protection on DOT-111 tank cars in continued crude oil and ethanol service. In the meantime, Safety Recommendation R-12-5 remains classified "Open—Acceptable Response."

R-12-6

Require that all bottom outlet valves used on newly manufactured and existing non-pressure tank cars are designed to remain closed during accidents in which the valve and operating handle are subjected to impact forces.

We are aware that representatives of PHMSA are working with representatives of the Federal Railroad Administration (FRA) and the Association of American Railroad's Tank Car Committee on a task force to review bottom outlet performance and operating mechanisms. We note that this task force is developing recommendations to prevent actuation of a bottom outlet valve (BOV) in accident and non-accident conditions by evaluating design requirements for a shear plane for connection to the BOV, reviewing the strength requirements of the skid protection structure, and identifying and evaluating design requirements for BOV operating mechanisms to prevent an unintended release.

Pending our receipt of specifics regarding how you plan to address our September 2014 comments on the NPRM and completion of the recommended action, Safety Recommendation R-12-6 remains classified "Open—Acceptable Response."

We issued Safety Recommendations R-14-4 through -6 on January 23, 2014, as a result of our participation in the Canadian Transportation Safety Board investigation of the July 6, 2013, derailment of a Montreal, Maine & Atlantic freight train in Lac-Mégantic, Quebec, Canada.

P-14-4

Work with the Federal Railroad Administration [FRA] to expand hazardous materials route planning and selection requirements for railroads under Title 49 *Code of Federal Regulations* [CFR] 172.820 to include key trains transporting flammable liquids as defined by the Association of American Railroads (AAR) Circular No. OT-55-N and, where technically feasible, require rerouting to avoid transportation of such hazardous materials through populated and other sensitive areas.

We are aware that you have proposed expanding the route planning and selection requirements in 49 CFR section 172.820 to apply to HHFTs and that, as of July 1, 2014, rail carriers have been voluntarily applying the route planning and selection requirements of 49 CFR section 172.820 to trains carrying 20 or more cars of crude oil. Pending completion of the recommended action, Safety Recommendation R-14-4 remains classified "Open—Acceptable Response."

P-14-5

Revise the spill response planning thresholds contained in Title 49 *Code of Federal Regulations* Part 130 to require comprehensive response plans to effectively provide for the carriers' ability to respond to worst-case discharges resulting from accidents involving unit trains or blocks of tank cars transporting oil and petroleum products.

We are aware that your advanced notice of proposed rulemaking (HM-251B) seeks comments on potential revisions to 49 CFR Part 130 to expand the applicability of a comprehensive oil spill response plan (OSRP) to HHFTs and to modify the threshold measure for comprehensive OSRPs such that all HHFTs would meet it.

We are also aware that you and the FRA are reviewing comments regarding appropriate threshold measures, the clarity of existing requirements, additional information that should be incorporated into comprehensive OSRP requirements, and the associated costs. We are also aware that you are considering making revisions to 49 CFR Part 130 in future rulemaking. Pending completion of these efforts, Safety Recommendation R-14-5 remains classified “Open—Acceptable Response.”

P-14-6

Require shippers to sufficiently test and document the physical and chemical characteristics of hazardous materials to ensure the proper classification, packaging, and record-keeping of products offered in transportation.

We are aware that your NPRM proposes a new section, 49 CFR section 173.41, requiring shippers to implement a documented sampling and testing program for mined gases and liquids, including crude oil, addressing key elements designed to ensure the proper classification and characterization of mined liquids and gases. We also are aware that the NPRM proposes to require shippers to routinely review and revise their programs, as well as to retain and provide documentation of their programs. Pending the issuance of the final rule as described, Safety Recommendation R-14-6 remains classified “Open—Acceptable Response.”

Please provide the requested information regarding our comments on the NPRM as they apply to these safety recommendations, and submit future updates electronically at correspondence@ntsb.gov regarding your progress in addressing them. If a response, including attachments, exceeds 10 megabytes, please e-mail us at the same address for instructions. Please do not submit both an electronic copy and a hard copy of the same response.

Sincerely,

cc: Ms. Barbara McCann Director
Office of Safety, Energy, and
Environment
Office of the Under Secretary for Policy