



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

January 10, 2014

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

Dear Mr. Chairman:

Section 6(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426) requires the U.S. Department of Transportation (DOT) to submit periodic reports describing specific actions taken to implement open statutory mandates referred to in section 6(a)(1) regarding pipeline and hazardous materials transportation safety. I am pleased to provide you with a copy of the enclosed report, "Open Statutory Mandates Referred to in Section 6(a)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act," fulfills that requirement.

With safety as our highest priority, the Department continues to pursue implementation of open statutory mandates referred to in section 6(a)(1) for our pipeline and hazardous materials safety programs. Further regulatory action is pending on one open hazardous materials transportation safety statutory mandate, which is described in detail in the enclosed report. The Department will continue to work diligently and expeditiously to complete implementation of these mandates.

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

If I can provide you with additional information or assistance, please feel free to call me.

Sincerely,

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Anthony R. Foxx

Enclosure



THE SECRETARY OF TRANSPORTATION
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January 10, 2014

The Honorable John Thune
Ranking Member, Committee on Commerce,
Science, and Transportation
United States Senate
Washington, DC 20510

Dear Senator Thune:

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January 10, 2014

The Honorable Bill Shuster
Chairman, Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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January 10, 2014

The Honorable Nick J. Rahall, II
Ranking Member, Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Rahall:

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January 10, 2014

The Honorable Fred Upton
Chairman, Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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January 10, 2014

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

Dear Congressman Waxman:

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**Open Statutory Mandates Regarding Pipeline and Hazardous Materials Safety
August 2013**

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 operational characteristics and configuration of trains transporting spent nuclear fuel (SNF) and high-level radioactive waste (HLRW). Since the completion of FRA's research, the expected increase in rail shipments of SNF and HLRW anticipated by this mandate still has not occurred. The FRA has reviewed information on the movement and storage of this material and has determined that any potential movement by rail will not occur before 2021, at the earliest. The FRA has decided to place any further effort on this Notice of Proposed Rulemaking (NPRM) project on hold until progress has been made in identifying a location to which the material will be transported for either temporary or permanent storage. The FRA will continue to coordinate with the parties involved in the transportation planning process and will monitor the status of the selection of a location to store this material. The FRA will maintain the internal draft NPRM on hold with the intent of proceeding with the rulemaking process at some point between 2013 and 2021, when progress has been made in selecting a facility location to which material will be transported.</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 (IFR). 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 it does not plan to issue a final rule. The FMCSA is exploring legal options regarding finalizing its companion rule when the primary rule is still an IFR.</p>

Report Contact

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

Pipeline and Hazardous Materials Safety Administration
Office of Governmental, International, and Public Affairs
U.S. Department of Transportation
1200 New Jersey Avenue SE, E27-330
Washington, DC 20590
(202) 366-4831
(202) 366-7431 (fax)