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April 28, 2015

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

Mr. Shaun Donovan
Director
Office of Management and Budget
725 17th Street NW
Washington, D.C. 20503

Dear Secretary Foxx and Director Donovan:

We write today to urge you to prioritize and complete your review of the Pipeline and Hazardous Materials Safety Administration's (PHMSA's) proposed rule, the Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains.

Since 2011, the Department of Transportation (DOT) has been working on a comprehensive rule to address the safety standards for DOT-111 tank cars transporting hazardous materials. Furthermore, Congress has repeatedly called for the finalization of these rules, including a January 15, 2015 deadline established in the Consolidated and Further Continuing Appropriations Act of 2015 (P.L. 113-235). Although a rule of this magnitude requires extensive and robust review, the delays are discouraging. The rail industry and the American public need this issue addressed without any further delays.

The National Transportation Safety Board (NTSB) has continuously identified shortcomings in the DOT-111 tank car design that pose a clear, demonstrated risk that hazardous materials, such as crude oil and ethanol, could be released in the case of a rail accident. The NTSB has consistently found that accidents involving the rupture of DOT-111 tank cars are violent,

destructive, and costly. Furthermore, NTSB has continued to recommend updated regulation and safety specifications for DOT-111 tank cars.

As the transportation of crude oil by rail increases, it is important to ensure that proper safety regulations are in place. According to the Association of American Railroads (AAR), 233,698 carloads of crude oil were transported by rail in 2008, and in 2013, this number jumped to 407,761 carloads. Furthermore, AAR notes that existing pipeline networks “lack the capacity to handle the higher production” and it has fallen on railroads to pick up the slack. It is obvious that the amount of crude oil by rail will continue to rise, which only further increases the need for regulatory certainty and updated safety regulations.

Although the January deadline was not met, we were pleased that the DOT submitted a final rule package to the Office of Management and Budget (OMB) on February 5, 2015. After repeated delays and missed deadlines, we urge the DOT and OMB to work diligently and judiciously to meet the proposed May 2015 deadline of final executive review and approval. Both the American public and the railroad industry stand to benefit, as the repeated delays have only added to the current lack of regulatory certainty.

The continued regulatory uncertainty negatively impacts the ability of the rail industry to invest in new technologies and plan for future expenses. Without a final rule in place, the rail industry cannot commit to upgrades on existing cars or the purchasing of new cars. While it is clear that tank cars in current use need to be upgraded or phased out, the lack of a final rule only adds to the delay in these changes. Many industry experts, such as the American Chemistry Council, note that there is already a backlog of tank car orders due to a limitation in manufacturing and shop capacity. A timely review of the DOT’s final rule will allow the rail industry to begin to make the necessary changes to their existing rail cars and budget for new costs.

The American public entrusts the DOT with the responsibility of ensuring that hazardous materials are transported safely by rail. In New Jersey alone, there are approximately 2,400 miles of rail freight lines. New Jerseyans and Americans across the country need the peace of mind that comes from knowing that hazardous materials transported through their communities by rail are done so safely and efficiently.

The recent derailments of freight trains carrying hazardous materials only confirm the prioritization and importance of this final rule. In order to provide regulatory certainty and to ensure that adequate safety standards are in place to protect American lives and property, we respectfully urge you to complete your review of PHMSA’s proposed rule by the self-imposed May 2015 deadline. Our constituents in New Jersey as well as all Americans need assurance that adequate protections are in place when hazardous materials are being transported through their

communities. We thank you for your continued service and diligent work on this issue, and we look forward to the completion of your review.

Sincerely,



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Member of Congress



CHRIS SMITH
Member of Congress



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