

United States Senate

WASHINGTON, DC 20510

May 6, 2015

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

Dear Secretary Foxx,

We are writing today to voice significant concern over community right-to-know and disclosure requirements for crude-by-rail shipments included in the May 1, 2015 Final Rule on "Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains" (Final Rule).

We call upon you to issue an Emergency Order that improves the process for providing detailed information on crude-by-rail movements and volumes to first responders, shifts the onus for information sharing onto the railroads and not communities, and allows for the continued public availability of broader crude-by-rail data on movements and routes.

First, we ask U.S. DOT to specifically include State Emergency Response Commissions (SERCs) in permanent crude-by-rail disclosure requirements, as they are now under the temporary May 7, 2014 Emergency Order issued by the department. Under the Final Rule, detailed, up-to-date crude-by-rail information is only made available to U.S. Department of Homeland Security Fusion Centers and state, local, and tribal officials in jurisdictions affected by the rail carrier's routing decisions. SERCs play a critical role in developing and supporting state and local first responders' emergency planning, preparation, and mitigation capabilities, especially with regards to events involving hazardous materials. Any robust disclosure requirement must ensure that SERCs are also receiving and can disseminate timely information on crude-by-rail movements.

Second, we strongly believe that detailed crude-by-rail information should be provided outright and proactively to first responders – and not require individual jurisdictions in our states to reach out ad hoc to learn about the safety risks in their communities. The onus for obtaining detailed crude-by-rail information should not be on the local jurisdiction.

Third, we call upon U.S. DOT to clarify that broader crude-by-rail information will remain accessible to the public. While we understand the need for detailed Security Sensitive Information to remain need-to-know, we agree with the FRA that public disclosure of broader crude-by-rail information, such as volumes and movements, is in no way detrimental to transportation safety, and that broader information does not fall under any category of Security Sensitive Information as defined by U.S. DOT and the Transportation Security Administration.

Finally, we urge you to address the concerns of first responders immediately after a crude-by-rail accident by making sure they have timely access to the information necessary to properly respond. In many cases, this can be accomplished by requiring immediate, proactive notification to both SERCs and County Emergency Management Offices with detailed train information. These steps will help ensure the strongest possible emergency response.

The unsafe movement of crude-by-rail is a threat to communities across this country. Therefore, to improve information for first responders and protect the general public, we call upon you to issue an Emergency Order that ensures that SERCs, and by extension first responders, have clear access to detailed, up-to-date information about crude-by-rail shipments and that the public continues to have general information about crude-by-rail volumes and routes that does not compromise security.

The Final Rule constitutes a setback on disclosure requirements that could hamper our first responders and negatively impact the safety of our communities. We urge you to promptly address these shortfalls, and look forward to your response.

Sincerely,



MARIA E. CANTWELL
United States Senator



CHARLES E. SCHUMER
United States Senator



ROBERT P. CASEY, JR.
United States Senator



TAMMY BALDWIN
United States Senator



RICHARD J. DURBIN
United States Senator



AL FRANKEN
United States Senator



PATTY MURRAY
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KIRSTEN GILLIBRAND
United States Senator