



# STATE OF MINNESOTA

## Office of Governor Mark Dayton

116 Veterans Service Building ♦ 20 West 12th Street ♦ Saint Paul, MN 55155

September 22, 2014

Ms. Cynthia Quarterman  
Administrator  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Mr. Joseph Szabo  
Administrator  
Federal Railroad Administration  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Re: Docket No.: PHMSA-2012-0082 (HM-251)

Dear Ms. Quarterman and Mr. Szabo:

Since 2009, the amount of Bakken crude oil being shipped through Minnesota has increased exponentially. Currently, about seven trains, carrying more than 23 million gallons of crude oil, pass through Minnesota on hundreds of rail cars every day.

Minnesota will continue to be at the epicenter of Bakken oil movement for the foreseeable future as the amount of oil coming out of the Bakken region increases on a nearly daily basis. In addition, the state's 20 ethanol plants produce one to two unit trains of ethanol per day throughout the state. These train movements have a significant impact on almost 3.5 million of the state's 5 million citizens who reside in communities on Bakken oil and ethanol "high-hazard flammable train" routes.

The U.S. Department of Transportation should quickly adopt and implement these stronger safety rules and stricter operating regulations to protect the public safety. Attached are comments on behalf of the State of Minnesota. The state is highly aware of both the national benefit and the localized risks of this rapidly-growing commodity movement. In 2014, I signed into law comprehensive prevention and emergency response improvements to increase the safety and security of Minnesota residents. I look forward to a continued partnership to ensure adequate safety measures are in place for all Minnesotans.

If you have any questions, please contact Charlie Zelle, Commissioner, Minnesota Department of Transportation, at 651-366-4800, or via email at [charlie.zelle@state.mn.us](mailto:charlie.zelle@state.mn.us).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Dayton".

Mark Dayton  
Governor

Attachment (1)

cc: Commissioner Charlie Zelle, MnDOT



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September 23, 2014

Pipeline and Hazardous Materials Safety Administration  
U.S. Department of Transportation

Docket No.: PHMSA-2012-0082 (HM-251)  
RIN: 2137-AE91

Hazardous Materials: Enhanced Tank Car Standards and Operational Controls for High Hazard Flammable Trains

To the Administrators of PHMSA and FRA:

The State of Minnesota offers the following considered comments regarding the proposed rulemaking for Docket No. PHMSA-2012-0082. Minnesota has become the freeway for the majority of Bakken crude oil moving by rail in unit trains to East Coast and Gulf Coast refineries, with a routine traffic level of seven or more loaded trains per day on both the BNSF and the CP Railways. In addition, the state's 20 ethanol plants normally produce one to two unit trains of ethanol per day throughout the state. Almost 3.5 million of the state's 5 million citizens reside in communities and urban areas traversed by the currently active "high-hazard flammable train" (HHFT) or key train routes. The state is highly aware of both the national benefit and the localized risks of this rapidly growing commodity movement, witnessed by the comprehensive prevention and emergency response improvements mandated by state law in our most recent legislative session.

*Status as Affected Entity:* the State of Minnesota administers the State Emergency Response Committee through the Department of Public Safety (DPS). DPS provides statewide services to coordinate railroad and emergency responder training at 128 affected EMS units, and offers technical, material, and emergency response team resources in the event of an incident. The Pollution Control Agency (PCA) serves a similar role in preparing for and responding to events resulting in environmental damage. The Department of Transportation (MnDOT) fields two track inspectors and a hazmat inspector as part of the Federal Railroad Administration's State Partnership Program in the expanded prevention effort. MnDOT has safety authority over the state's grade crossings and is conducting a Crude By Rail Grade Crossing Safety Study to identify projects that will improve crossing safety and reduce this source of derailments through application of appropriated state funds. MnDOT also has a financial stake in the rail freight system through the Minnesota Rail Service Improvement (MRSI) program, begun in 1985, and offering loans and grants to shippers, communities, and short lines to maintain rail services throughout the region.

*Codifying of Emergency Orders:* We fully support the approach of codifying the standing Emergency Orders that have been issued since the Lac Megantic and Casselton incidents into the body of Rules.

Speed Limit Options for High-Hazard Flammable Trains: Option 1, a 40 MPH speed limit in all areas, would have extensive negative effects on the shipment capacity, reliability, cost, and overall system velocity for Minnesota and its market connections. Given the dependence of key industries on rail transport, such as agriculture, iron ore, ethanol, coal for energy generation, processed foodstuffs, construction materials, and manufactured goods, the state could be materially harmed by loss of system capacity as evidenced by the recent conditions brought on by severe winter weather. Over 30% of Minnesota goods are transported by rail in intercity markets, well above the national average. The economic cost of this restriction would have far-reaching economic impacts.

Option 2, a 40 MPH limit in areas with more than 100,000 people, would be an acceptable limit for trains using tank cars not conforming with the improved performance specifications, and would put relatively limited strain on system velocity and capacity compared to Option 1. The cost benefit analysis supports this compromise order.

Improved Tank Car Design Standards: The State of Minnesota and its agencies support the safety features and performance level represented by the Option 2: AAR 2014 Tank Car. This specification offers the maximum protection from breach, rupture, and thermal gain that is also included in the Option 1: PHMSA/FRA design, without the inclusion of ECP brakes that are considered to have limited benefit and cost effectiveness by the Task Force and in the rulemaking's data. We support an adoption of Distributed Power on all HHFT's to improve braking performance as an alternative. We also question the effective applicability of new braking equipment that must include every car in the train to be usable but is not required throughout the general fleet.

Given what we consider to be the added protection of the 9/16 inch normalized steel shell in the AAR 2014 Tank Car over the proposed Option 3: Enhanced CPC 1232 car design, with little or no carrying capacity penalty in a 286,000K car, we defer any support on Option 3.

Existing Tank Car Retrofits: We support a retrofit performance standard to match the Option 2: AAR 2014 Tank Car. Existing DOT 111 cars considered candidates for comprehensive retrofit to meet all performance standards should be given schedule priority over existing CPC-1232 cars, with the logical goal of increasing the overall fleet safety level in the shortest time possible. We fully agree with the proposed rulemaking time schedule to provide a complete new-build or retrofitted fleet capable of handling the full volume of offered Packaging Group 1 Class 3 Flammable Liquids.

In regard to the implementation schedule, we note that adoption of new car use for Packing Group 2 could be modified to allow a somewhat longer fleet conversion. This timeline affects our ethanol industry and its competitive costs. The industry involves 20 plants throughout the state and is a major supplier of the nation's ethanol for automotive fuels. To date, their safety record in transporting fuels has been enviable and should be recognized. This in no way dilutes our support for an ultimate retirement of the conventional DOT 111 fleet for flammable or other hazardous materials.

Final Comments: The State of Minnesota, speaking on behalf of its constituents, remains concerned that the rulemaking and adoption of new operating rules and design standards proceed as rapidly as possible. We note that with steadily increasing Bakken field production and a delay of three to five years before new pipeline capacity can begin to divert some of the crude-by-rail traffic, Minnesota citizens along the oil train routes will be presented with a higher risk of catastrophic incidents than necessary. The shorter the time this window of heightened risk exists,

the better all involved will be. Minnesota intends to continue its pro-active collaboration with PHMSA, the FRA, the railroads, and its emergency responders over the coming years, and looks forward to prompt and effective action by the federal government.

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Mark Dayton, Governor  
State of Minnesota