



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

June 12, 2015

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

Dear Mr. Chairman:

I am pleased to submit the report, Open Statutory Mandates, as required by Section 6(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426). This report describes the specific actions that the U.S. Department of Transportation (DOT) has taken to implement open statutory mandates referred to in section 6(a)(1) of the Act, regarding pipeline and hazardous materials transportation safety.

With safety as our highest priority, the Department continues to pursue the implementation of the open statutory mandates referred to in section 6(a)(1) of the Act. For our pipeline and hazardous materials safety programs, there are only two open mandates remaining. However, based on factors outside of DOT's control, further actions on these two mandates have been put on hold indefinitely, as detailed in the report.

I have sent a similar letter 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 further information or assistance, please feel free to call me.

Sincerely,



Anthony R. Foxx

Enclosure



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

June 12, 2015

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

Dear Senator Nelson:

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WASHINGTON, DC 20590

June 12, 2015

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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THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

June 12, 2015

The Honorable Peter A. DeFazio
Ranking Member, Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Congressman DeFazio:

I am pleased to submit the report, Open Statutory Mandates, as required by Section 6(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426). This report describes the specific actions that the U.S. Department of Transportation (DOT) has taken to implement open statutory mandates referred to in section 6(a)(1) of the Act, regarding pipeline and hazardous materials transportation safety.

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

June 12, 2015

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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THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

June 12, 2015

The Honorable Frank Pallone, Jr.
Ranking Member, Committee on Energy
and Commerce
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Pallone:

I am pleased to submit the report, Open Statutory Mandates, as required by Section 6(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426). This report describes the specific actions that the U.S. Department of Transportation (DOT) has taken to implement open statutory mandates referred to in section 6(a)(1) of the Act, regarding pipeline and hazardous materials transportation safety.

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**Open Statutory Mandates Referred to in Section 6(a)(1)
of the Norman Y. Mineta Research and Special
Programs Improvement Act**

A Report to Congress Required by Pub. L. No. 108-426

**U.S. Department of Transportation
August 2014**

Open Statutory Mandates Regarding Pipeline and Hazardous Materials Safety February 2014

Legislative Report Requirement

The Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. No. 108-426), in section 6(b)(1), “Reports by the Secretary – Statutory Mandates,” directs the Secretary to transmit a report to certain congressional committees identifying specific actions taken by the U.S. Department of Transportation (DOT) to implement open statutory mandates referred to in section 6(a)(1) concerning pipeline and hazardous materials safety that had not been implemented as of the date of enactment of the Act. Specifically, the Act states:

(b) REPORTS BY THE SECRETARY.—

(1) STATUTORY MANDATES.— Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

Summary

As of this report, DOT documents the following:

- Two open hazardous materials transportation safety statutory mandates—one assigned to the Federal Railroad Administration (FRA) and one assigned to the Federal Motor Carrier Safety Administration (FMCSA).

The DOT will continue to work diligently with all interested parties to implement open statutory mandates. The hazardous materials mandates and the specific actions currently in progress to close them are detailed below.

The open hazardous materials safety statutory mandates are found in the following :

- Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. No. 101-615; November 16, 1990); and
- USA Patriot Act of 2001 (Pub. L. No. 107-56; October 26, 2001).

**Open Statutory Mandates Regarding Pipeline and Hazardous Materials Safety
August 2014**

Act and Section	Open Mandate	Status
Hazardous Materials Transportation Uniform Safety Act of 1990 (Pub. L. No. 101-615; November 16, 1990)		
<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 2014 and 2021, when progress has been made in selecting a facility location to which material will be transported.</p>
USA PATRIOT Act of 2001 (Pub. L. No. 107-56; October 26, 2001)		
<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 confirmed that it does not plan to issue a final rule therefore FMCSA will not be issuing a companion final rule.</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)