U.S. Department
of Transportation

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

July 16, 2013

The Honorable Deborah A. P. Hersman
Chairman
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594

Dear Chairman Hersman:

This letter provides an update on Pipeline and Hazardous Materials Safety Administration (PHMSA) actions to address rail related Safety Recommendations issued by the National Transportation Safety Board (NTSB), specifically, R-07-4 and R-08-13. The NTSB originally issued Safety Recommendation R-07-4 as a result of a head-on collision between two freight trains in Anding, Mississippi, and issued Safety Recommendation R-08-13 following its investigation of a train derailment on October 20, 2006 in New Brighton, Pennsylvania. In that incident, a Norfolk Southern Railway Company (NS) train hauling tank cars loaded with denatured alcohol derailed while crossing the Beaver River railroad bridge resulting in a release of hazardous material.

R-07-4

> *With the assistance of the Federal Railroad Administration, require that railroads immediately provide to emergency responders accurate, real-time information regarding the identity and location of all hazardous materials on a train.*

The Federal Railroad Administration (FRA) has completed a retrospective review of 49 CFR Part 174, which is the part of the hazardous materials regulations (49 CFR Parts 171-180) that applies to persons who accept and transport hazardous materials (hazmat) by rail. This review was conducted in accordance with Executive Order 13563, Improving Regulation and Regulatory Review to identify regulations that may be outmoded, ineffective, insufficient, or excessively burdensome. The FRA and PHMSA are working together to determine the best path forward to modify, streamline, expand, or repeal regulations in 49 CFR Part 174 that would, in part, address this Safety Recommendation and the companion Safety Recommendation R-07-2 issued to the FRA. Among those regulations identified as outmoded and insufficient is the requirement for notice to train crews of the current position of hazmat rail car(s). The FRA and

PHMSA are considering the use of technology by the railroads to update train consist information on a real time basis, which would identify the current location of all rail cars including the positions of rail car(s) containing hazardous materials. This may include regulations requiring real-time updates on the position of hazmat cars that would specifically address the gaps in not having the most current information available because of activity (car pick-ups and set outs) performed between automatic equipment identification (AEI) readers that are only able to update the train consist as a train passes a reader. Additionally, the FRA believes that better identification of rail cars moving under One-Time Movement Approvals (OTMAs) listed on the train consist would provide further benefit to emergency responders as these cars generally have some manner of defect.

Previously, we informed the NTSB of the initiation of the "Hazardous Materials Automated Cargo Communication for Efficient and Safe Shipping" (HM-ACCESS) project. PHMSA is considering two key initiatives under HM-ACCESS, both of which may lead to regulatory changes. First, PHMSA continues evaluating several special permit applications for the use of electronic shipping papers. Second, the Moving Ahead for Progress in the 21st Century Act (MAP-21) instructs PHMSA under § 33005 to conduct pilot tests to evaluate the feasibility and effectiveness of paperless hazard (e-HM) communication systems. PHMSA has completed a series of public meetings and has obtained stakeholder feedback regarding e-HM that will be helpful in the implementation of HM-ACCESS. Information and other documents summarizing feedback from the emergency response community and industry are available at: http://phmsa.dot.gov/initiatives/r-and-d. PHMSA is preparing for the implementation of several pilot tests during the second half of 2013, and many stakeholders have expressed great interest in participating. We hope to conduct the pilot tests in three or four regions of the United States with at least one pilot test in a rural area. A summary paper defining the pilot tests can also be accessed at the aforementioned website.

Continued progress on these two projects will result in modernizing and improving the way hazardous materials information is immediately communicated to emergency responders and others by all modes of transportation, including the location of hazmat cars on a train. These efforts will enhance safety as well as address Safety Recommendation R-07-4.

R-08-13

> *With the assistance of the Federal Railroad Administration (FRA), evaluate the risks posed to train crews by unit trains transporting hazardous materials, determine the optimum separation requirements between occupied locomotives and hazardous materials cars, and revise 49 Code of Federal Regulations 174.85 accordingly.*

The FRA has completed a retrospective review of 49 CFR Part 174. Among those regulations identified as possibly being outmoded and ineffective is the requirement for position of placarded rail car(s) in a train relative to changes in the current practice of rail operations,

including cabooses to the use of switching and shoving platforms for train crews. The FRA is gathering the needed safety data and plans to assist PHMSA in evaluating the safety implications for rail operation under current regulatory requirements. The findings will be used to support any potential regulatory amendment including the optimum rail car separation requirements. The FRA and PHMSA are currently working together to determine the best path forward to modify, streamline, expand, or repeal regulations in 49 CFR Part 174 through rulemaking action based on the retrospective review that would, also in part, address this Safety Recommendation. If such action were to occur, data and analysis on train car placement would be made available for public review and input.

If you have questions, or comments regarding this or any other hazardous materials safety matter, please feel free to contact me directly at 202-366-4433.

Regards,

Cynthia L. Quarterman