



A bold voice for transportation workers

January 13, 2020

Michael Ciccarone
Standards and Rulemaking Division,
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: Hazardous Materials: Liquefied Natural Gas by Rail
Docket No. PHMSA-2018-0025**

Dear Mr. Ciccarone,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to provide comments on the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of Proposed Rulemaking (NPRM) concerning the transportation of liquefied natural gas (LNG) by rail. By way of background, TTD consists of 33 affiliate unions, including unions representing freight rail workers and first responders.¹ In responding to this notice, TTD strongly endorses the comments filed by the International Association of Fire Fighters (IAFF) and the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division (SMART-TD).

Through this NPRM PHMSA, in coordination with the FRA, proposes to allow for the transportation of LNG by rail. These operations are not currently allowable under the Hazardous Material Regulations (HMRs) and entities wishing to conduct rail LNG transport must apply for a PHMSA special permit. PHMSA states that it has proposed this rule in response to increased demand for LNG and a petition filed by the American Association of Railroads (AAR). The NPRM would permit LNG transport in DOT-113-C120W tank cars, however the agencies declined to proceed with AAR's request to create new tank car specification, which AAR describes as DOT-113C140W.

¹ Attached is a list of TTD's 33 affiliated unions.



TTD's rail unions are broadly interested in the expansion of freight rail transportation to include new products and increased services. These opportunities to create jobs and ensure that freight rail transportation is an appealing and competitive option for manufacturers and shippers are critical to the growth of the sector. However, PHMSA and FRA must not be permissive of operations that endanger rail workers, first responders, and the public.

Unfortunately, the NPRM as proposed falls terminally short in addressing the severe safety risks involved in rail transportation of LNG, and PHMSA must not proceed with a proposed rule that so substantially abdicates its safety oversight and responsibilities. Further, the proposal must be considered within the greater context of rail safety. Actions taken by both carriers and the FRA have demonstrably reduced the safety of freight operations today and for the future. It is deeply inadvisable for the agencies to introduce further danger to railroads at time when safety is already neglected.

The comments filed by the IAFF make clear that PHMSA and FRA have failed to consider the real world implications of LNG transport and accidents involving LNG. As IAFF notes, cars carrying LNG are at risk of boiling liquid expanding vapor explosions (BLEVE). In a consist with a substantial quantity of DOT-113 tanks carrying LNG, such an accident would be catastrophic. An LNG accident taking place in a densely population area, like Chicago's 75th St. Corridor, would immediately place thousands of residents at risk and place first responders in grave danger.

Despite these risks, the agencies have ignored concerns from the NTSB, which only this year stated that "trains consisting of DOT-113 tank cars loaded with large volumes of flammable cryogenic gas lacked any performance records of safe operations or acceptable accident history to validate the operational safety of continuous transport of LNG utilizing the DOT-113 rail car". While the agencies are quick to dismiss regulatory actions in the name of safety when data is "inadequate", this concern apparently does not apply to promoting the business interests of the railroads.

Further, given its limited use in current operations, we are not satisfied with PHMSA and FRA's determination that the DOT-113 cars are unquestionably the appropriate and safe package for the transport of LNG. As both the IAFF and the NTSB discuss in their comments, the evidence presented by the agencies, a risk analysis by Exponent Inc, is inadequate to make this determination. The agencies should pursue additional research to better assess loss of containment probabilities and crashworthiness, specifically as it may relate to the LNG transport.

IAFF also notes that NPRM relies on National Fire Protection Association (NFPA) Standard 59A, the Standard for the Production, Storage, and Handling of Liquefied Natural Gas, despite the fact that this standard refers to stationary LNG facilities, not the transportation of a hazardous material at high speeds. It is incumbent on the agencies to understand the dangers associated with rail transport of LNG before they allow these operations. Incorrectly appropriating data associated with completely different operational scenarios does not represent a good faith effort by the agencies to address safety.

Most condemingly, the NPRM proposed no new operational controls to ensure the safe transport of rail LNG, relying instead on adherence to the industry's voluntary adoption of AAR's Circular OT-55, which refers to hazmat transportation protocols, and its potential application to LNG transport. The NPRM states that:

“PHMSA and FRA decided not to propose additional operational controls because there is not sufficient data about the potential movements of LNG by tank car. While PHMSA expects LNG will initially move in smaller quantities (i.e., a few tank cars) as part of manifest trains, it is uncertain whether LNG will continue to be transported in those quantities or if LNG by rail will shift to be transported using a unit train model of service, and if so, how quickly that shift will occur”.

The agencies opinion on operational controls is fundamentally inconsistent with safety. Given that the transportation of LNG is largely prohibited, and exists only in the extremely limited circumstances when a special permit is granted, it is therefore unlikely that a vast body of evidence on necessary operational controls exists to date. Any proposed rule must take a more serious examination of the controls that PHMSA mentions, including LNG train length, crewing requirements, additional speed restrictions, restrictions on the total number of LNG cars in a consist, and braking standards.

While PHMSA should reexamine the safety value of all these operation controls in its final rule, TTD specifically urges action on two items. First, we strongly agree with comments filed by the NTSB regarding speed restrictions. Current regulations contained at § 174.310 *Requirements for the operation of high-hazard flammable trains*, restrict certain HHFT operations to 50 MPH, and 40 MPH within a high threat urban area. PHMSA and FRA should set similar, if not more stringent, speed restrictions for LNG transportation. It is both surprising and disturbing that the current NPRM sets no speed restrictions. As mentioned above, voluntary adherence to an AAR circular that PHMSA has declined to even incorporate via reference in the proposal is severely inadequate. We agree with the NTSB that speed restrictions must be included in the final rule.

Additionally, as TTD and SMART-TD have discussed in previous filings to the FRA, the presence of a qualified engineer and conductor on a train is essential to safety on freight operations. This is particularly true on any train with any number of hazmat cars in its consist. We continue to call on FRA to mandate crew levels broadly, and to ensure that no freight consist with LNG cars is operated by a single crewmember

We are also deeply unpersuaded by PHMSA's statement that carriers will slowly phase in LNG transportation, and the carriers and PHMSA will use this opportunity to glean the information required to proceed safely. As the IAFF writes, any accident involving LNG threatens the lives of first responders, rail crews, and members of the public in the vicinity of the accident. Further, if the agency is not itself requiring any form of gradual phase-in, it is unlikely that the carriers will do so voluntarily. If the demand for domestic and international rail transport of LNG is as substantial as the agencies and the AAR claim, than it is not simply believable that carriers will artificially restrict businesses opportunities in order to better collect data.

Finally, FRA and PHMSA must consider the overall state of safety in the railroad industry before introducing new and hazardous variables. FRA's decision to withdraw its proposed regulation on crew size and preempt several states' law on the subject, the adoption of precision scheduled railroading by almost every Class I carrier, and FRA's willingness to grant waivers to key safety regulations, including brake inspection requirements, have resulted in a less safe system. Now is not the time for the agencies to further degrade safety in the freight rail sector, exposing rail workers, first responders, and the public to unacceptable danger.

While we are interested in working with the PHMSA and the FRA on proposals to bring new commodities to market via freight rail, it must be done in a way that is responsible and upholds the safety missions of the respective agencies. Unfortunately, this NPRM does not do so. We hope that the agencies will reconsider this proposal as currently drafted, and we look forward assisting the agencies in the future.

Sincerely,

A handwritten signature in cursive script that reads "Larry I. Willis".

Larry I. Willis
President



Transportation Trades Department, AFL-CIO
A bold voice for transportation workers

TTD MEMBER UNIONS

Air Line Pilots Association (**ALPA**)
Amalgamated Transit Union (**ATU**)
American Federation of Government Employees (**AFGE**)
American Federation of State, County and Municipal Employees (**AFSCME**)
American Federation of Teachers (**AFT**)
Association of Flight Attendants-CWA (**AFA-CWA**)
American Train Dispatchers Association (**ATDA**)
Brotherhood of Railroad Signalmen (**BRS**)
Communications Workers of America (**CWA**)
International Association of Fire Fighters (**IAFF**)
International Association of Machinists and Aerospace Workers (**IAM**)
International Brotherhood of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers and Helpers (**IBB**)
International Brotherhood of Electrical Workers (**IBEW**)
International Longshoremen's Association (**ILA**)
International Organization of Masters, Mates & Pilots, ILA (**MM&P**)
International Union of Operating Engineers (**IUOE**)
Laborers' International Union of North America (**LIUNA**)
Marine Engineers' Beneficial Association (**MEBA**)
National Air Traffic Controllers Association (**NATCA**)
National Association of Letter Carriers (**NALC**)
National Conference of Firemen and Oilers, SEIU (**NCFO, SEIU**)
National Federation of Public and Private Employees (**NFOPAPE**)
Office and Professional Employees International Union (**OPEIU**)
Professional Aviation Safety Specialists (**PASS**)
Sailors' Union of the Pacific (**SUP**)
Sheet Metal, Air, Rail and Transportation Workers (**SMART**)
SMART-Transportation Division
Transportation Communications Union/ IAM (**TCU**)
Transport Workers Union of America (**TWU**)
UNITE HERE!
United Automobile, Aerospace and Agricultural Implement Workers of America (**UAW**)
United Mine Workers of America (**UMWA**)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service
Workers International Union (**USW**)

These 33 labor organizations are members of and represented by the TTD

