



Transportation Trades Department, AFL-CIO

October 27, 2023

Mr. William S. Schoonover
Associate Administrator for Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information
Docket No. PHMSA-2016-0015

Dear Mr. Schoonover:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) notice of proposed rulemaking to require all railroads to generate and make available to first responders electronic train-consist information relevant to the transportation of hazardous materials by rail. TTD consists of 37 affiliate unions, including freight rail workers, first responders, and dispatchers who interact with hazardous materials on a daily basis.¹ We applaud PHMSA for taking this important step forward and encourage the agency to consider the recommended changes to the proposed rule detailed below. In addition, we endorse the comments submitted by our affiliate, the International Association of Fire Fighters (IAFF).

Background

PHMSA explains that its intention with this rulemaking is to “ensure that emergency response personnel have timely, accurate, actionable information regarding the hazardous materials being transported [by rail] and the hazards they may encounter” as they respond to rail accidents and incidents.² PHMSA specifically proposes requiring all classes of railroads transporting hazardous materials to generate and maintain in electronic form real-time information on the position and contents of rail cars containing hazardous materials. This requirement would supplement the presently required hard copy of the same information, which must also be updated in real-time and remain on the train in a conspicuous location. The proposed rule would further require railroads to immediately distribute or “push” the electronic information, also known as the “train consist,” to authorized emergency responders within a 10 mile radius of an accident or incident involving a train transporting hazardous materials.

¹ Attached is a complete list of the labor unions affiliated with TTD.

² <https://www.regulations.gov/document/PHMSA-2016-0015-0013>

PHMSA's proposed rulemaking comes at a time when widespread safety issues are plaguing the freight rail industry, many of which were highlighted by the disastrous train derailment in East Palestine, Ohio, earlier this year. The National Transportation Safety Board (NTSB) subsequently held hearings which revealed that first responders did not have access to the consist information for the train involved until nearly one hour after the incident first occurred.³ Such delays inherently endanger train crews, responding fire fighters and other emergency personnel, in addition to compromising public safety more broadly. Response strategies hinge on the type of hazardous material involved in an accident or incident. Therefore, accurate and readily available train consist information is vital in ensuring emergency personnel are able to appropriately respond to train derailments and other incidents, particularly when hazardous materials are involved.

Electronic and Hardcopy Train-Consist Information

Last year, PHMSA requested input from the public regarding hazardous materials communication.⁴ Specifically, PHMSA sought feedback on the use of electronic hazard communications as an alternative to physical hazard communication (e.g. shipping papers, train consists, dangerous goods manifests, notifications to the pilot in command, and emergency response information, as well as associated administrative documentation including DOT Special Permits, approvals, and registrations). Both TTD and the IAFF submitted comments strongly encouraging PHMSA to continue requiring the use of physical hazard communication while allowing electronic hazard communication in instances where it would not pose a safety risk. We appreciate that this rulemaking strikes such a balance.

As we saw in East Palestine, a hard copy of the train consist isn't always readily available following an accident or incident. Necessary railroad safety procedures can make the hard copy of the train consist difficult for first responders to immediately locate.⁵ Electronic train consist databases, however, are also not without issue. Many trains travel along extremely rural routes where cellular coverage is often limited, which can make accessing electronic data difficult or impossible. Furthermore, operating and responding crafts continue to need printed communication as an important alternate source of information should transporters or electronics be compromised. We emphasize that electronic communication technology should supplement, not supplant, printed hazardous materials communication. For these reasons, TTD and our affiliates support requiring railroads to maintain real-time electronic train consist information *in addition* to maintaining a hard copy aboard the occupied locomotive.

Emergency Notification and Recommended Changes

In this rulemaking, PHMSA also proposes to require the immediate transmission of electronic train consist information to state-authorized first responders within a 10 mile radius of a rail accident or incident. We appreciate this type of proactive approach and urge PHMSA to consider the additional recommendations outlined below to further facilitate the flow of information to first responders.

³ <https://data.nts.gov/Docket?ProjectID=106864>

⁴ <https://www.regulations.gov/docket/PHMSA-2022-0043>

⁵ <https://data.nts.gov/Docket/Document/docBLOB?ID=15653290&FileExtension=pdf&FileName=Group%20C%20Panel%201%20-%20Exhibit%208%20-%20HM1%202019-Rel.pdf>

We respectfully request that PHMSA require railroads to transmit electronic train consist information to 911 dispatch centers in addition to local fire departments and other emergency response agencies in the event of a train accident or incident. We further urge PHMSA to consider requiring railroads to *proactively* transmit train consist information to all 911 dispatch centers along a train's scheduled route of travel. This approach to information sharing with 911 dispatch centers will ensure that responding personnel have timely access to train consist information prior to their arrival at the scene of an accident or incident.

In addition, we request that PHMSA expand the proposed 10 mile radius for transmission. Many jurisdictions operate under mutual aid agreements, wherein two or more communities agree to share emergency resources – personnel, teams, facilities, equipment and supplies – under certain circumstances, such as a high impact event like a train derailment.⁶ Fire departments or regional HazMat teams responding to rail accidents and incidents as a result of a mutual aid agreement are likely to be located outside of the proposed 10 mile radius. Extending the radius beyond 10 miles and requiring the transmission of train consist information to 911 dispatch centers will ensure that mutual aid responders will be able to access the train consist prior to their arrival at the scene of an incident, whether that be through the 911 dispatch center or proactive electronic transmission of the information.

In addition to facilitating access to train consist information for mutual aid responders, transmission to 911 dispatch centers may also help to mitigate cellular connectivity issues. First responders communicate with dispatch centers via radio, which does not rely on cellular networks. In instances where responding personnel are unable to access train consist information via the electronic transmission or locate the hardcopy of the train consist, communicating with the 911 dispatch center via radio could provide them with the information necessary to determine a preliminary response strategy until the full train consist information can be acquired.

Training and Information Sharing

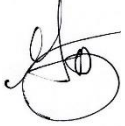
With regard to the practical implementation of this rulemaking, we respectfully request that PHMSA require Class I railroads to notify every fire department within their service area about the availability of electronic train consist information and the means through which it can be accessed. Additionally, we urge PHMSA to require that Class I railroads provide training to first responders to ensure they are able to accurately read and interpret train consist information. Training may be provided using varying models, like in-person sessions and web modules, but PHMSA must ensure railroads are actively and effectively engaging with first responders in this crucial area.

Safety for railroad employees, first responders, and communities must always be the highest priority. We again applaud PHMSA for its efforts to improve hazard communications in a way that will best serve the public interest and respectfully request that the agency consider our recommended changes to this rule.

⁶ https://www.fema.gov/sites/default/files/2020-07/fema_nims_mutual_aid_guideline_20171105.pdf

We appreciate the opportunity to comment on this matter and look forward to working with PHMSA in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', with a large circular flourish at the end.

Greg Regan
President