



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

January 2, 2025

Michael J. Rush
Senior Vice President – Safety & Operations
Association of American Railroads
425 Third St., SW
Suite 1000
Washington, DC 20024

Reference No. 24-0111

Dear Mr. Rush:

This letter is in response to your November 14, 2024, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirements for real-time electronic train consist information adopted in the HM-263 final rule.¹

We have paraphrased and answered your questions as follows:

- Q1. You ask for clarification regarding the requirement to include information on the point of origin and destination of the train—see § 174.26(a)(1). You seek confirmation that the requirement can be met by using the city, milepost, and/or yard name to identify the point of origin and destination of the train traveling under a single train symbol.
- A1. Your understanding is correct. As noted in the final rule, the intent of this requirement is to ensure emergency responders are provided with relevant information about the point of origin and destination of the train which will aid in determination of the direction of travel.² Providing the city, milepost, and/or yard name of origin and destination (with state, province, and country information) would comply with the requirement to provide point of origin and destination information for the train.

Please note that for movement within the same city (such as from one yard to another in Chicago, IL), providing only the city name for both the point of origin and destination will not satisfy the requirements of § 174.26(a)(1). In this case, alternative directional information such as milepost-to-milepost or yard-to-yard information would be necessary to aid in determining direction of travel. For trains with the same origin and destination point (i.e., a train that departs and returns to the same place), the data points should

¹ 89 FR 52956 (June 24, 2024). Available for review at: <https://www.govinfo.gov/content/pkg/FR-2024-06-24/pdf/2024-13474.pdf>

² See pages: 89 FR 52958, 52977, and 52983.

include directional information to indicate the direction of travel to aid emergency responders—such as providing an indication that the train is heading toward, or away from, the origin/destination city, yard, and/or milepost.

- Q2. You describe the existing system of toll-free phone numbers posted throughout the rail system—e.g., located at grade crossings—that allow for a caller to utilize a prompt phone tree (i.e., pressing the #1 in response to a verbal prompt) to reach a railroad emergency response point of contact. You seek confirmation that such a phone system would comply with the requirements of § 174.28(a) if the system routes the caller to a person that can relay required train consist information in electronic form.
- A2. Your understanding is correct. A phone tree system with verbal prompts described in your letter is an appropriate way to initiate communication with the railroad’s emergency response point of contact to obtain electronic train consist information. When determining compliance with the railroad emergency response point of contact requirements and § 174.28(a), the focus will be on whether the Federal, State, or local first responders, emergency response officials, or law enforcement personnel seeking assistance were able to reach the railroad’s point of contact and receive electronic train consist information such that it is immediately available for use when needed. For instances where incidents occur away from a grade crossing where the toll-free phone number is likely not to be posted, other methods may be necessary to satisfy requirements. As discussed in the final rule,³ § 174.28(a) is a performance standard, and other methods of compliance, such as the use of a shared electronic database system, may be used to satisfy the regulations.

However, please note that the system described in your letter would not fulfill the requirement to provide proactive telephone notification of an incident to the primary Public Safety Answering Point (PSAP)—e.g., 9-1-1 call center—responsible for the area where the incident occurred and transmit electronic train consist information to them, as required in § 174.28(b).

- Q3. You ask for confirmation that the word “authorized”—as in “*authorized* Federal, State, and local first responders, emergency response officials, and law enforcement personnel” (§ 174.28(a))—means a person who is tasked by an appropriate government authority with responding to a hazardous materials incident.
- A3. Your understanding is correct. The word “authorized” also applies to a person who is tasked by an appropriate government authority to investigate a hazardous materials incident within the jurisdiction where the incident occurred. As stated in the HM-263 final rule,⁴ the word “authorized” in the phrase “*authorized* Federal, State, and local first responders, emergency response officials, and law enforcement personnel” means those persons authorized by an appropriate authority—e.g., a town, city, county, state, tribal, or federal agency—to take part in the response to, or investigation of, an accident or

³ 89 FR 52975-6.

⁴ 89 FR 52974.

incident involving the transportation of hazardous materials by rail within the jurisdiction where the incident occurred.

- Q4. You state that railroads may not be in a position to determine whether a person is “authorized” to receive electronic train consist information. You ask whether railroads may meet the regulatory requirement in § 174.28(a) to provide electronic train consist information to “authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel” by transmitting electronic train consist information to the primary PSAP—as required by § 174.28(b)—and relying on the primary PSAP to distribute the electronic train consist information to other authorized parties.
- A4. The answer is no. The requirements in § 174.28(a) and (b) are separate and distinct. Section 174.28(a) contains three requirements, specifically:
1. Each railroad operating a train carrying hazardous materials must at all times maintain in electronic form, off the train, accurate train consist information as required in § 174.26.
 2. Each railroad must make such electronic train consist information immediately accessible at all times to its designated emergency response point of contact such that they are able to communicate train consist information to Federal, State, and local first responders, emergency response officials, and law enforcement personnel seeking assistance.
 3. Each railroad must also provide, using electronic communication (e.g., a software application or electronic data interchange, etc.), that electronic train consist information to authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel along the train route that could be or are involved in the response to, or investigation of, an accident, incident, or public health or safety emergency involving the rail transportation of hazardous materials such that the information is immediately available for use at the time it is needed.

In determining compliance with § 174.28(a), a determination will be made as to whether authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel received electronic train consist information at the time it was needed to respond to an emergency situation. Sole reliance on a primary PSAP to disseminate electronic train consist information to authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel creates a risk that, due to miscommunications, errors, communication infrastructure failures, or other unforeseen circumstances, critical train consist information may not be provided to those emergency responders who need it most. Railroads must be capable of providing electronic train consist information to authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel directly, in addition to the primary PSAP.

- Q5. You ask what the requirement to provide electronic train consist information to authorized personnel “that could be or are involved in the response” means. You state that railroads are not able to determine what organizations are involved, or may be

involved, in the response to a rail incident involving hazardous materials, and seek confirmation that a railroad may comply with this requirement by providing train consist information to the primary PSAP.

- A5. See answer A4. The intention of the phrase “that could be or are involved in the response” is to ensure that emergency response organizations responding due to mutual aid agreements, or agencies responding to investigate the incident—sometimes from a large geographic distance from the site of the emergency—have access to electronic train consist information. As stated above, evaluating compliance with this requirement will focus on whether the train consist information reached authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel at the time it was needed to respond to an emergency involving the transportation of hazardous materials by rail. For instance, if an emergency response organization that is responding to a major incident due to a mutual aid agreement has not been able to receive train consist information from the incident commander due to communication issues or resource prioritization at the scene, the railroad must provide electronic train consist information directly to the mutual aid organization.⁵
- Q6. You ask for confirmation of your understanding that while there are entities that need electronic train consist information immediately (e.g., the incident commander), there are other entities that do not need train consist information immediately. You seek confirmation that a railroad may deny requests to immediately provide train consist information to certain entities it determines do not need the information immediately.
- A6. The answer is that you are correct that it would be appropriate to transmit electronic train consist information via email directly to an incident commander immediately upon request. PHMSA cautions railroads that making a judgement that a specific authorized Federal, State, tribal, or local first responder, emergency response official, or law enforcement personnel does not need electronic train consist information immediately during an emergency—despite a direct request for such information—could result in a failure to comply with this requirement. Meanwhile, we acknowledge that repeated requests for information from an organization to whom the railroad has already successfully provided electronic train consist information could present an undue burden on a railroad’s emergency response resources. A railroad may de-prioritize such repeated requests in order to focus response resources and attention on higher priority emergency response tasks.
- Q7. You state that freight railroads often have contractual arrangements with one another that address responsibilities for handling incidents when a railroad operates a train on another railroad’s track and understand that these arrangements make the notification of the track owner unnecessary. You seek confirmation of this understanding.
- A7. The answer is that if the track owner is aware of the incident before, or at the same time as the railroad operating the train due to their own monitoring systems, crew reports, or other means, then the requirement to inform the track owner has been met. Additionally,

⁵ See 89 FR 52973-52974 for further discussion on the intended recipients of train consist information.

while § 174.28(b)(1) assigns primary responsibility for emergency notification and electronic transmission of the train consist information to the railroad operating the train, this responsibility may be assigned to the track owner under a contractual arrangement. In such a case, the railroad operating the train must ensure that the track owner has access to all the electronic train consist information for the train and the ability to fulfill all of the requirements adopted in this rulemaking.

Q8. You state that trains transporting hazardous materials can experience incidents, such as train crew medical emergencies, crossing incidents, and trespasser/pedestrian strikes where the presence of hazardous materials in the train is not relevant to emergency response. You ask whether any incident requiring response from local emergency response agencies involving a train transporting hazardous materials triggers the requirement to perform the emergency notification and transmit electronic train consist information to the primary PSAP.

A8. The answer is no. There are certain scenarios where the presence of hazardous materials in the train consist are not relevant to emergency response to an incident, and therefore provision of electronic train consist information is not required. Examples of these types of incidents include (but are not limited to):

- Medical emergencies involving the train crew.
- Grade crossing accidents that do not involve a derailment, suspected release, or actual release of hazardous material.
- Pedestrian strikes.

When these types of incidents occur and involve a train transporting hazardous materials, we encourage railroads to communicate the presence of hazardous materials onboard the train to the emergency responders and/or primary PSAP, and work with the parties involved to communicate any relevant information about the hazardous materials on the train if specifically requested. Please note that all derailments involving a train transporting hazardous materials are subject to the requirements of this rulemaking.⁶

Q9. You ask whether a software application used to provide access to electronic train consist information—such as AskRail®—must display the shipping paper information in the order as described in § 172.202(a).

A9. The answer is no. The shipping paper information required as part of the electronic train consist information—see § 174.26(a)(2)—does not need to be presented in the order specified in 49 CFR Part 172 Subpart C in order to comply with the requirements of this rulemaking. However, we encourage the presentation of this information in an easily recognizable format, such as the order of the basic description specified in § 172.202(a).

We would like to take this opportunity to address frequently asked questions (FAQs) we have received on § 174.28(b) emergency notification requirement. Specifically:

⁶ See 89 FR 52972 for further discussion of types of incidents and accidents requiring emergency notification.

FAQ1. Can a phone call to a primary PSAP's 10-digit administrative phone number, rather than through the 9-1-1 emergency phone call system, fulfill the requirement for the emergency notification telephone call?

A1. The answer is yes. However, in order to comply with the notification requirement in § 174.28(b), the phone call must be answered by the primary PSAP. In the chaotic aftermath of a major train derailment, calls to a PSAP's administrative phone number may go unanswered in favor of answering emergency 9-1-1 calls. We encourage railroads to take this into consideration and have procedures or systems in place to ensure that the primary PSAP answers the emergency notification phone call.

FAQ2. Section 174.28(b)(1) requires that a railroad forward electronic train consist information to the primary PSAP in a form that they are capable of readily accessing. What does this mean?

A2. The answer is that the railroad must communicate with the primary PSAP during the emergency notification phone call, and then transmit the electronic train consist information to the primary PSAP in the format that the primary PSAP requests. This may involve an email, a fax, use of a software application, or other means that the primary PSAP requests. Compliance with this requirement requires the railroad to work collaboratively with the primary PSAP and successfully provide them with the electronic train consist information in the requested format. We encourage railroads to continue building strong relationships with primary PSAPs along their network to address issues of information format before an emergency situation.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,



Yul Brenner Baker Jr.
Acting Chief, Standards Development Branch
Standards and Rulemaking Division



November 14, 2024

Mr. Shane Kelley
Director, Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration (PHH-10)
U.S. Department of Transportation, East Building
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

Dear Mr. Kelley:

On June 24, 2024, PHMSA published a final rule entitled “FAST Act Requirements for Real-Time Train Consist Information.” 89 Fed. Reg. 52596. The final rule imposed several new requirements pertaining to the generation and maintenance of electronic consist information and the provision of consist information to emergency response officials. On July 19, 2024, the Association of American railroads (AAR) and its Class I freight railroad members met with PHMSA and the Federal Railroad Administration (FRA) to seek clarification of a number of issues that arose from their review of the new regulations and the explanatory text in the preamble to the final rule.¹ AAR is submitting this request for interpretation based on PHMSA’s suggestion during the July 19th meeting. The request for interpretation is sought pursuant to PHMSA’s regulatory authority, as identified in 49 C.F.R. section 105.20.

Train Origin and Destination

Section 174.26(a)(1) requires the train consist to include the “point of origin and destination of the train.” The regulatory text matches section 7302(a)(1)(A)(ii) of the FAST Act, in which Congress directed the Secretary of the U.S. Department of Transportation to require Class I railroads to generate electronic consist data that includes the point of origin and destination of the train. Pub. L. 114-94 (Dec. 4, 2015).² The legislative history is silent on what is meant by “the point of origin and destination of the train.” Therefore, PHMSA must look to the plain meaning of the words that make up the term. FRA defines “train” as “one or more locomotives coupled with or without cars, except during switching service.” See e.g., 49 C.F.R. § 218.5. Railroads designate trains with train symbols. Neither PHMSA nor FRA regulations define the terms “point of origin” and “destination.” The Merriam-Webster dictionary defines “point of

¹ AAR is a non-profit trade association whose membership includes freight railroads that operate 83% of the line-haul mileage, employ 95% of the workers, and account for 97% of the freight revenues of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

² Section 7308 of the FAST Act was amended in 2021 by § 26003 of the Infrastructure Investment and Jobs Act (IIJA) to revise the legislative deadline for completing the statutory mandate, but the amendment did not affect the substantive statutory mandate related to origin and destination. Pub. L. 117-58 (Nov. 15, 2021).

origin” as “the place where something comes from : the place where something originates.”³ “Destination” is defined as “a place to which one is journeying or to which something is sent.”⁴ Applying these definitions to the statutory text drives home the conclusion that Congress intended for railroads to identify the starting point and ending point of the train traveling under a single train symbol. There is no statutory basis for requiring railroads to provide additional information to meet the point of origin/destination requirement.

There are multiple ways in which a railroad may identify the point of origin and destination of the train. In the preamble, PHMSA provides an example where the point of origin and destination are the railyard where the train was assembled and the next railyard with a scheduled stop in the direction of travel. During the July 19th meeting, PHMSA and FRA indicated that it would be acceptable to identify the point of origin and destination in a city-to-city format. While neither the statute nor the regulatory text includes a directional component, this would address the concerns raised by the International Association of Fire Chiefs about knowing the direction of the train for over-the-road moves because it is easy for a first responder to assess the direction of a movement between two cities. AAR agrees with the view expressed during the July 19th meeting that a city-to-city format satisfies the new regulatory requirement (railroads can also include state, province, country information, where necessary). AAR also reads the statutory mandate and the regulatory text to allow railroads to choose alternative point of origin/destination formats, such as milepost-to-milepost or yard-to-yard, as well as other alternatives. We request written confirmation of this interpretation.

Making consist information available immediately through 1-800 numbers

Section 174.28(a) requires train consist information to be immediately available for use by emergency responders at the time it is needed. Railroads have well-established emergency contact numbers at every public grade crossing under the Emergency Notification System (ENS) regulations for the public to use to contact the railroad to report an incident. These 1-800 numbers rely on prompt phone trees to ensure that the caller is quickly and effectively directed to the right person at the railroad. For instance, the prompt could say, “in case of an emergency, press 1.” We understand based on the July 19th meeting that the use of such a phone tree complies with section 174.28(a), provided that such an approach routes the caller to a person who can relay the required information.

Providing the consist to authorized federal, state, and local first responders

Section 174.28(a) requires railroads to provide electronic train consist information to “authorized Federal, State, and local first responders, emergency response officials, and law enforcement personnel.” AAR recognizes that this language was pulled from section 7302(a)(1)(B) of the FAST Act, as amended by section 26003 of the IIJA, and the railroads understand the need to get information to the

³ <https://www.merriam-webster.com/dictionary/point%20of%20origin#:~:text=noun%20phrase,that%20burned%20the%20building%20down>

⁴ <https://www.merriam-webster.com/dictionary/destination>

proper emergency response authorities immediately. However, railroads are also concerned about train consist information falling into the wrong hands.⁵

The railroads interpret “authorized” in this case as meaning someone who is tasked by an appropriate government authority with responding to a hazmat incident, but railroads are not necessarily positioned to know if a person requesting consist information is an authorized first responder. Ideally, the railroads would be able to provide the information to the National Response Center (NRC) when they report an incident. This would be simple, efficient, and effective. Unfortunately, the NRC only accepts telephonic notifications, which limits its efficacy in assisting with emergency response (and AAR encourages PHMSA and FRA to work with NRC to update its reporting system to allow for communications that include electronic train consist data). During the July 19th meeting, the feedback received was that a railroad will have satisfied the regulatory requirement by providing the consist information to the Public Safety Answering Point (PSAP) immediately. The PSAP can then disseminate the consist information while working with Incident Command to share consist information as appropriate. We seek written confirmation of this interpretation.

A related question arises with respect to what PHMSA means in section 174.28(a) when it says that railroads are required to provide electronic train consist information to personnel “that could be or are involved in the response.” Railroads are not properly positioned to assess who is or could be involved in the incident response. Consistent with the interpretation provided above, we understand that railroads can satisfy the regulatory requirement by providing the consist information to the PSAP immediately. The PSAP can then disseminate the consist information, as it determines to be necessary and appropriate, to personnel “that could be or are involved in the response.” The railroads seek written confirmation of this interpretation.

Lastly, section 174.28(a) requires railroads to provide electronic train consist information to “authorized [] first responders, emergency response officials, and law enforcement personnel along the train route that could be or are involved in the response to, or investigation of, an accident, incident, or public health or safety emergency involving the rail transportation of hazardous materials such that the information is immediately available for use at the time it is needed.” As we understand the requirement, it is appropriate for railroads to provide the train consist information via email or other electronic communication method in a timely manner consistent with the need for the information. For example, if Incident Command requests the consist information to assist in the incident response, we understand that the consist needs to be provided right away. However, there may be other requestors who ask for the train consist information in response to an incident where it is important to provide the information, but they may not need the information immediately. The reason for raising this issue is because if a railroad official is receiving repeated requests for train consist information from different entities and he or she is required to provide it immediately in every instance, doing so would distract that official from focusing on the response and negatively impact safety. We seek written confirmation of this interpretation.

⁵ PHMSA seems to share that concern, as evidenced by section 174.28(d).

Notification to track owners

Section 174.28(b)(1) states that the railroad transporting hazardous materials must separately notify the track owner of a hazardous materials incident if it is operating over another railroad's track. Our understanding is that this provision was added to address concerns from passenger railroads that have freight railroads operating over track owned by the passenger line. Many freight railroads have existing contracts with other freight railroads that address the handling of incidents, and there is no evidence that these agreements present a safety concern for the operating railroad or the track owner. Where these agreements exist there would not be a safety need to notify the track owner in the event of an incident. We understand that PHMSA concurs with that such existing track agreements address the concerns underlying the track owner notification requirement and request written confirmation that it is acceptable to follow the existing track agreement in such circumstances.

Types of incidents triggering notification requirement

Section 174.28(b) establishes a notification requirement when a train transporting hazardous materials is involved in an incident, but it is not clear what types of incidents will trigger the notification requirement. Railroads interface daily with local PSAPs. In some instances, railroads require an emergency response where there is a presence of hazardous materials in the consist, but the presence of the hazardous materials is irrelevant to the specific need for an emergency response (e.g., employee medical issues, crossing incidents, trespasser/pedestrian strikes). There is not a safety justification—and it would be highly burdensome—for the notification requirement to be triggered just because an incident involves a train that happens to have hazardous materials on it. We read the notification requirement as being triggered when an emergency response directly involves the potential release of hazardous material in the train consist or the emergency response is activated because of the presence of a hazardous material in the train consist. We seek written confirmation on this point.

Use of AskRail

PHMSA implies that railroads will use the AskRail application to comply with many of the requirements in HM-263. However, there would need to be significant modifications to AskRail to make it compliant with the requirements of 49 C.F.R. Part 172, which requires a specific order to the basic shipping description. AskRail could be modified to include the additional items required in HM-263—such as the point of origin/destination pair and 24-hour emergency number—that are currently not displayed in AskRail, thereby meeting the intent of HM-263, but not the required order of Part 172, without major cost, programming, and time. We understand based on the July 19th meeting that providing the required information of HM-263 but not in the regulatory order of Part 172 meets the intent of the regulation and would be compliant.

AAR would be happy to discuss the issues raised in this letter, should that be desired. Thank you for considering our request for clarification.

Sincerely,

Michael J. Probst