

BEFORE THE
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

DOCKET NO. PHMSA-2016-0015 (HM-263):
HAZARDOUS MATERIALS: FAST ACT REQUIREMENTS FOR REAL-TIME TRAIN
CONSIST INFORMATION

PETITION FOR EXTENSION OF PUBLIC COMMENT PERIOD
FROM
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

The American Short Line and Regional Railroad Association (ASLRRA), on behalf of itself and its member railroads, petitions the Federal Railroad Administration (FRA) for a 60-day extension of the time to submit comments in response to the Notice of Proposed Rulemaking (NPRM) in Docket No. PHMSA-2016-0015 (HM-263): *Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information*.¹ As written this proposed rule would have a significant impact on a substantial number of small businesses, so an extension to the comment period will provide time for ASLRRA to thoroughly obtain and review feedback from its member railroads in order to respond to the NPRM's assumptions and provide PHMSA with data to perform a meaningful regulatory flexibility analysis as required by the Small Business Regulatory Fairness Act.

ASLRRA is a small non-profit trade association representing approximately 500 short line and regional railroad (short line) members and 500 railroad supply, contractor, and service company members in legislative and regulatory matters. Short lines operate about 50,000 miles

¹ 88 Fed. Reg. 41,541 (June 27, 2023).

of track, or approximately 30% of the national freight network, employing approximately 18,000 people, and connect manufacturers, businesses and farmers in rural communities and small towns to larger markets, urban centers, and ports. The majority of short line railroads are considered small businesses.²

In the NPRM, PHMSA proposes amendments to its Hazardous Materials Regulations to require all railroads to generate in electronic form, maintain, and provide to first responders, emergency response officials, and law enforcement personnel, certain information regarding hazardous materials in rail transportation to enhance emergency response and investigative efforts. While PHMSA states that the NPRM responds to the mandate in section 7302 of The Fixing America's Surface Transportation Act (FAST Act, Pub. L., 114-94), as amended by the Investment Infrastructure and Jobs Act (Pub. L. 117-58)³, the NPRM far exceeds the statutory mandate, as section 7302 only mandates a rule to require Class I railroads transporting hazardous materials to generate accurate, real-time, electronic train consist information that must be provided "to State and local first responders, emergency response officials, and law enforcement personnel that 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." Instead, in the NPRM, PHMSA proposes to require Class II and Class III railroads to also compile, update and forward accurate, real-time train consist information in electronic form."⁴ However, short line railroads present a lower risk profile as, overall, they operate less complex operations at lower speeds than the majority of Class I railroads.

² See 13 C.F.R. § 121.201 and North American Industry Classification System code 482112, "Short Line Railroad."

³ Codified at 49 U.S.C. 20103 note.

⁴ 88 Fed. Reg. at 41,544.

As Class II and Class III railroads were not included in the FAST Act statutory mandate, ASLRRA needs additional time to obtain information from its member railroads and to ascertain the impact of the proposed rule. ASLRRA will need to survey its member railroads, which often involves extensive follow-up. Short line railroads lack the resources and existing electronic infrastructure of the larger railroads. For example, most short line railroads do not send train consist data for inclusion in AskRail.

ASLRRA urges PHMSA to provide an additional 60 days for public comment.

Respectfully submitted,



Sarah G. Yurasko
General Counsel
American Short Line and Regional Railroad Association
50 F Street NW, Suite 500
Washington, DC 20001
(202) 585-3448

June 30, 2023