



DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 174, and 180

[Docket No. PHMSA-2016-0015 (HM-263)]

RIN 2137-AF21

Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On June 27, 2023, PHMSA published a notice of proposed rulemaking, titled “Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information (HM-263),” proposing amendments to the 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. In response to a request for an extension of the comment period submitted by the American Short Line and Regional Railroad Association (ASLRRA), PHMSA is extending the comment period for the HM-263 notice by an additional 60 days. Comments to the HM-263 notice will now be due by October 27, 2023.

DATES: Comments should be received on or before October 27, 2023. To the extent possible, PHMSA will consider late-filed comments.

ADDRESSES: Comments should reference Docket No. PHMSA-2016-0015 (HM-263) and may be submitted in the following ways:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 1-202-493-2251.
- *Mail:* Dockets Management System, U.S. Department of Transportation, Dockets Operations, M-30, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, D.C. 20590-0001.
- *Hand Delivery:* To the Docket Management System: Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: All submissions must include the Agency name and Docket Number for this notice (PHMSA-2016-0015) at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Docket: For access to the dockets to read associated documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its process. DOT posts these comments without change, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA; 5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN" for "proprietary information." Submissions containing CBI should be sent to Dirk Der Kinderen, U.S.

Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590-0001.

Any commentary that PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Dirk Der Kinderen, Standards and Rulemaking Division, 202-366-8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

On June 27, 2023, PHMSA published the HM-263 notice of proposed rulemaking (NPRM)¹ in response to statutory mandates in the “Fixing America’s Surface Transportation Act”,² as amended, and a National Transportation Safety Board safety recommendation; and complements existing regulatory requirements pertaining to the generation, maintenance, and provision of similar information in hard copy form, as well as other hazard communication requirements. PHMSA’s proposal will require all railroads transporting hazardous materials to generate in electronic form train consist information, maintain that information off-the-train, update that information in real-time, and provide that information to authorized emergency response personnel in advance of their arrival to an accident or incident. As such, railroads operating a train carrying hazardous materials will be required to push that information to state authorized local first responders promptly following either an accident involving that train, or an incident involving the release or suspected release of hazardous material from that train. Railroads must also ensure that, in updating that electronic train consist information, they also update hard (printed) copy versions of the same information provided to train crews such that

¹ 88 FR 41541

² Pub. L No. 114-94

both hard (printed) copy and electronic versions of that information are consistent, accurate, and available when needed most.

II. Comment Period Extension

PHMSA initially provided a 60-day comment period for the HM-263 NPRM, which closes on August 28, 2023. In response to a request to extend the comment period from ASLRRRA,³ PHMSA is extending the comment period for an additional 60 days. ASLRRRA requested the extension to allow additional time to gather feedback on the economic impacts of the rulemaking from its member railroads—the majority of which are small businesses. The comment period will now close on October 27, 2023. This extension provides the public with an additional 60 days and should provide adequate opportunity for the public to submit comments; however, PHMSA may, at its discretion, extend the comment period further if necessary. To the extent possible, PHMSA will also consider late-filed comments.

Issued in Washington, DC, on August 10, 2023, under authority delegated in 49 CFR part 1.97.

William S. Schoonover,

*Associate Administrator of Hazardous Materials Safety,
Pipeline and Hazardous Materials Safety Administration.*

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³ ASLRRRA's comment may be reviewed at: <https://www.regulations.gov/document/PHMSA-2016-0015-0016>.