

INDUSTRY RAIL SAFETY ADVISORY COMMITTEE

MEETING AGENDA

Information of Meeting

Date: Monday, November 18, 2024

Time: 3:00 pm - 4:30 pm

Location: Virtual via Zoom

Facilitator: Sheryl Trent

Join Zoom Meeting

<https://us06web.zoom.us/j/89316636194?pwd=930M7hCz7sbYHAFmOff9Dj26BCdw.1>

Meeting ID: 893 1663 6194

Passcode: 283851

Approved language is in green

Drafted, waiting for approval is in blue

Purple was suggested by the railroads

Brown was suggested as joint language from the Community Committee

Agenda

3:00 pm Welcome

3:02 pm Housekeeping/Administrative Items (*Information*)

- Review and Approval of Industry Committee Minutes from 11.12.24
- Joint Committee Minutes from 11.14.24
- Language Approved as of 11.12.2024 meeting (*For Review*)

Section IX, (B) The Report Must Include A Recommendation As To Which State Agency Would Host The Proposed Governance Body To Ensure Proper Compliance With State And Federal Law, Equitable Access To Community And Worker Organizations, And Enforcement Of Safety Requirements.

The Office of Rail Safety should be hosted within the Public Utilities Commission and the necessary steps taken to allow the Committees to provide advice to the Commission on rulemakings.

3:05 pm **Section IX (A)**, A Legislative Proposal Concerning the Creation of a Fee Structure or other Revenue Source, An Assessment, And A Governance Body and An Office of Rail Safety to Address the Needs Described in Subsections (1 3) (a) (I) to (13) (a) (III) of This Section, Which Fee Structure, Assessment, And Governance Body can Be Introduced As

Legislation As Soon As The 2025 Regular Legislative Session and Begin Operating No Later than January 1, 2027. (*Discussion and FINAL Language Creation*)

3:25 pm **Section III**, An Assessment of Data Collection and Reporting Needs To Ensure Annual Reporting on Rail Safety, Including Train Length, For Covered Railroads Facilities. (*Discussion and FINAL Language Creation*)

3:35 pm **Section VIII**, A Report Concerning Communication Issues Impacting Rail Lines In The State, Including Communication With State Entities Such As The Department Of Public Safety; Communication Issues Between Crews Working Long Trains; And Communication From Wayside Detectors To Crews; And

Note: there seemed in the meeting to be some opportunities to have two separate approaches from the Committee - one potentially where some significant issues remain to be addressed, and one where no significant issues exist. I would recommend two sections of language to be crafted, which we did not do in our meeting

Part I: State should be addressing the safety of crossings and grade separation and actively pursuing grants to achieve this goal. There is not enough funding to address the safety of all crossings, and prioritization and further studies and research will be key moving forward.

Railroads and first responders should ensure marketing and training around contact information for dispatch on all rail lines to report non-emergency and emergency incidents. The state should prioritize identifying and funding grade separations when a city, county or state street crosses a main rail line, particularly along emergency routes. The railroads and first responders should explore options for real-time two-way communication (not by phone) between first responders and train dispatch.

For trains over 8,500 feet (long trains)..
For wayside detectors...

Note: this section does not apply to short lines as they do not operate trains over 8,500 feet long and are not required to have wayside detectors.

Part II:

3:50 pm **Section VII**: An Assessment of Best Practices For Ensuring Financial Responsibility For Response, Cleanup, And Damages From Major Rail Events, Which Assessment Reviews Best Practices From Other States;

Partially Approved on 11.4.2024; approved as of 11.8.24: The current structure is sufficient to address most scenarios for possible rail-event incidents consistent with the existing federal common carrier obligation for railroads to accept offered hazardous or non-hazardous cargoes. Railroads

can be responsible for events if they have culpability, and there may be multiple responsible parties, such as shippers, consignees, and car owners (or lessors or lessees) that would also have financial responsibility. Class I railroads are self-insured for financial responsibility for a large range of events and may have access to their own or other responsible parties' insurance or self-insurance resources. However, this issue is complex especially with consideration to environmental impacts that may have legal delays in determination of responsibility. The FRA has a structure in place that the state could defer to and there are tools for making resources available that the Committees can continue to explore and understand.

Existing legislation is in place through C.R.S. 29-22-104 that addresses financial responsibility for the emergency response to a hazardous materials incident and the Committee recommends those statutes are followed. Financial responsibility related to the cleanup and repair extending beyond the initial emergency response to a hazardous materials incident and other types of incidents may need to be handled through other existing or forthcoming statutes and rules, as discussed above.

Alternate Language Proposed: This issue is complex, especially with consideration about environmental and other impacts that may cause legal delays in determination of responsibility. Railroads can be responsible for events if they have culpability, and there may be multiple responsible parties, such as shippers, consignees, and car owners (or lessors or lessees) that would also have financial responsibility. Additionally, Class I railroads are self-insured for financial responsibility for a large range of events and may have access to their own or other responsible parties' insurance. However, the FRA has a structure in place that the state could defer to and there are tools for making resources available that the Committees can continue to explore and understand. The Committee believes that the current structure, including C.R.S. 29-22-104 that addresses financial responsibility for the emergency response to a hazardous materials incident, is sufficient to address most scenarios for possible incidents consistent with the existing federal common carrier obligation.

4:00 pm

Section IV, An Assessment of Emergency Response And Cleanup Capacity Needed For Hazardous Materials Incidents Involving Railroads;

Approved as of 11.8.2024: While rail is statistically one of the safest modes of transportation for goods over land, this Committee recognizes the potential consequences of a rail incident for public health, safety, and the environment are so significant that continued improvement in the area of rail safety is required. This Committee has identified opportunities for improvement in training, equipment, and incident management in government and industry sectors. To further define the Committee's understanding of these opportunities, the Office of Rail Safety should conduct a detailed and comprehensive analysis of capacities to respond to a rail emergency based on the ten existing emergency management all-hazard districts. The Committees should continue to discuss, evaluate, and develop

solutions for these gaps in emergency response. Communication between rail employees and first responders during incidents should continue to be a focus for improvement. Additionally, the system could benefit from more specificity in terms of adequate training, number of staff, and certifications for responders and operations technicians, and the Committee requests that the legislature study solutions related to accepting and attending training. While a more detailed analysis is under way, the State will work with local first responder, emergency response and public health entities, the railroads, and other parties to identify and implement opportunities for improving emergency response.

Note: Overall context should provide balanced information about strengths, successes and work the railroads and first responders are doing in all areas, but in this area specifically.

Alternate Language Proposed: While rail is statistically one of the safest modes of transportation for goods over land and there have been many successes regarding the work of railroads and first responders on safety issues, this Committee recognizes the potential consequences of a rail incident for public health, safety, and the environment are significant so continued discussions among the railroads, first responders, and the Office of Rail Safety about any improvements in the area of rail safety need to occur. This Committee has identified opportunities that might improve training, equipment, and incident management in government and industry sectors. To further define the Committee's understanding of these opportunities, the Office of Rail Safety should conduct a detailed and comprehensive inventory of capacities to respond to a rail emergency based on the ten existing emergency management offices in all hazard districts. The Committees should continue to discuss, evaluate, and develop suggested solutions for any gaps in emergency responses identified. Communication between rail employees and first responders during incidents should continue to be a focus for improvement. Additionally, the system could benefit from more specificity in terms of adequate training, number of staff, and certifications for responders and operations technicians, and the Committee requests that the Office of Rail study solutions related to accepting and attending such training.

Proposed Combined Language Suggested by Community Committee: While rail is statistically one of the safest modes of transportation for goods over land, this Committee recognizes the potential consequences of a rail incident for public health, safety, and the environment are so significant that continued improvement in the area of rail safety is required.

The committees have identified opportunities for improvement in training, equipment, and incident management in government and industry sectors.

The Committee recommends gathering existing data from emergency responders and industry officials, and the LEPC's to identify the current state of hazmat response resources and emergency resources for rail incidents in the ten existing emergency management all hazmat districts and provide

data-based recommendations in line with risk management practices and industry data for the necessary resources needed in the state.

Significant improvements can be made in the accessibility of equipment caches, coordinated training of first responders and railroad operators, clarification of roles and responsibilities, to ensure that resources are available when needed. Of specific concern is the quality and context of the contact list for emergency response for DERA and overall communication between rail employees and first responders during incidents, which should continue to be a focus for improvement. The assessment should include identification of areas of concerns to include geographic accessibility, rural areas, vulnerable environmental assets including waterways and protected lands, crossings that experience high traffic volume crossings (including vehicle, pedestrian, and bike traffic), and population dense areas.

Additionally, the system could benefit from more specificity in terms of adequate training, number of staff, and certifications for responders and operations technicians.

4:10 pm

Section V: A Quantification of The Adequate Levels of Investment Necessary To Reduce Highway-Rail Crossing Incidents And Other Risks;

Approved 10.28.2024, one sentence added on 11.8.2024: The Committee recognizes that, given the limited time frame for conversation, it is not possible to offer a full quantification of adequate levels of investment. Further study and conversation is required, and the Class I railroad public project team can be actively involved in those meetings. The Committee recommends that the approach and focus for rail safety be organized into three areas:

1. **Education:** This includes school curriculum, drivers' education, drivers' license renewal, signage, and marketing. Education is a lower cost and long-term approach to increasing awareness of rail, pedestrian, and vehicular safety at crossings and in high traffic areas. In addition to the staffing levels for inspections and compliance, the Committee would strongly encourage and support education campaigns to include staffing Operation Lifesaver, PSA's, events, officers on the train and general outreach efforts to inform the public about safety and railroads.
2. **Engineering:** The Committee recommends continuing to coordinate identifying priority projects across the state based on data, developing a budget for those projects, and funding those projects in priority order. The state, local governments and railroads should prioritize identifying and funding grade separations when a city, county or state street crosses a main rail line, particularly along emergency routes. Engineering is a significant investment but is the only way to profoundly affect public safety. The Committee recommends that PUC and CDOT report annually to the Committees and public on the top 10 highest risk (a) urban and (b) rural crossings in the State and status of Section 130 prioritization and grants.

3. **Enforcement:** The Federal Railroad Administration recognizes that law-enforcement is an important part of reducing railway related fatalities and incidents. This committee recommends the Office of Rail Safety conduct an analysis of the current statutory and regulatory framework and make recommendations to legislative and regulatory bodies related to the effectiveness of violation penalties and classifications levels. Additionally, the Office of Rail Safety should provide data-driven enforcement recommendations to enforcement partners throughout the state.

Alternate Language Proposed: The Committee recognizes that, given the limited time frame for conversation, it is not possible to offer a full quantification of adequate levels of investment. Further study and conversation is required, and the Class I railroad public project teams and short line railroads can be actively involved in those meetings. The Committee recommends that the approach and focus for rail safety be organized into three areas, in priority order:

1. **Education:** This includes school curriculum, drivers' education, drivers' license renewal, signage, and marketing. Education is a lower cost and long-term approach to increasing awareness of rail, pedestrian, and vehicular safety at crossings and in high traffic areas. In addition to the staffing levels for inspections and compliance, the Committee would strongly encourage and support education campaigns to include staffing Operation Lifesaver, PSA's, events, officers on the train, and general outreach efforts to inform the public about safety and railroads.
2. **Engineering:** The Committee recommends continuing to coordinate identifying priority projects across the state based on data, developing a budget for those projects, and funding those projects in priority order. The state, local governments, and railroads should prioritize identifying and funding grade separations when a city, county or state street crosses a main rail line, particularly along emergency routes. Engineering is a significant investment but is the only way to profoundly affect public safety. CDOT and other governmental entities in the state should explore and utilize grants available from the federal government to separate or close crossings where city, county or state streets cross a main rail line that are deemed unsafe or that may be creating problems.
3. **Enforcement:** The Office of Rail Safety should conduct a review of the statutes related to penalties concerning automobiles, trucks, and other commercial vehicles as well as pedestrian and bicycle aspects of rail safety and increasing funding for staffing at the local law enforcement level. Currently penalties are tied to the level of infraction across the state, but a specific focus on enforcement concerning automobiles, trucks, and other commercial vehicles as well as pedestrian and bicycle safety aspects of rail safety is recommended.

Proposed Combined Language Suggested by Community Committee:
Eliminating and upgrading railroad crossings should be priorities for safety

improvements and adequate funding for local governments/road authorities to make necessary updates and upgrades to prevent incidents is critical, but investments in signage, education, communication, and coordination are also important, with a balance between rural areas and more urban areas. The Committee recommends that the approach and focus for highway rail crossing incident reduction rail safety be organized into three areas:

1. **Education:** This includes school curriculum, drivers' education, drivers' license renewal, signage, and marketing. Education is a lower cost and long-term approach to increasing awareness of rail, pedestrian, and vehicular safety at crossings and in high traffic areas. In addition to the staffing levels for inspections and compliance, the Committee would strongly encourage and support education campaigns to include staffing Operation Lifesaver, PSA's, events, officers on the train and general outreach efforts to inform the public about safety and railroads.
2. **Engineering:** The Committee recommends continuing to coordinate identifying priority projects across the state based on data, developing a budget for those projects, and funding those projects in priority order. The state, local governments and railroads should prioritize identifying and funding grade separations when a city, county or state street crosses a main rail line, particularly along emergency routes. Engineering is a significant investment but is the only way to profoundly affect public safety. Improved coordination and efforts to increase funding, including grant applications, for both freight and passenger rail are also important. Improved coordination between carrier and the Road Authorities to achieve any maintenance or infrastructure upgrades as well as adequate funding for local governments/road authorities to make necessary updates and upgrades to prevent incidents is critical.
3. **Enforcement:** This could include reviewing the penalty structure for motor vehicles and other penalties or increasing funding for staffing at the local law enforcement level based on evidence and best practices. Currently penalties are tied to the level of infraction across the state, but a specific focus on the motor vehicle, pedestrian and bicycle safety aspects of enforcement is recommended.

4:20 pm

Ongoing Meetings:

- *When and how often?*
- *Topics to address first*