

# INDUSTRY RAIL SAFETY ADVISORY COMMITTEE

## MEETING AGENDA

### Information of Meeting

Date: Wednesday, November 20, 2024  
Time: 10:00 am - 11:30 am  
Location: Virtual via Zoom  
Facilitator: Sheryl Trent

### Join Zoom Meeting

<https://us06web.zoom.us/j/89456722368?pwd=SKAJ17QrPnn9HGRszmESmx7qhoXqPa.1>

Meeting ID: 894 5672 2368  
Passcode: 155494

*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

- 10:00 am Welcome
- 10:02 am Housekeeping/Administrative Items (*Information*)

**Note: The language in green will be placed into the report if additional language is not agreed upon during this meeting.**

**Section III**, An Assessment of Data Collection And Reporting Needs To Ensure Annual Reporting On Rail Safety, Including Train Length, For Covered Railroads Facilities;

The Office of Rail Safety should evaluate if there is data that is not being reported to the FRA that would be helpful to provide in a reporting structure. If so, the Committees will continue to discuss this issue and determine what types of data should be reported and how (e.g., anonymity). If the information is proprietary or confidential, the Office of Rail Safety will follow current standards with regard to that information to protect confidentiality.

- 10:05 am **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*)

Statement #1: The State of Colorado should fund the Office of Rail Safety. The legislature created the entity and should be responsible for funding it. Railroads already pay a fee into the PUC.

Statement #2: The fee structure should be based on best practices from other states, and entities that are the subject of the inspections and safety reviews would pay those fees. This would be an extension of some existing fees, expanded to include the additional staffing and organizational structure.

10:35 am

**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 (*Discussion and FINAL Language Creation*)

The issues of communication are not fully understood and defined at this time, and the Committee will continue to meet, gather data and information, and discussion possible solutions to identified issues.

*Note: The committee members will be crafting language before the next meeting as well.*

10:50 am

**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.

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. Moreover, the FRA has in place resources 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 statutory 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 federal common carrier obligation imposed on railroads in the national rail network, requiring them to accept freight reasonably requested by a shipper for movement.

11:00 am

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.

**Proposed Language Submitted Sunday** 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, life safety and the environment are so significant that 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.

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

The Committee recommends gathering existing data from emergency responders, 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 hazard districts and provide data-based recommendations in line with risk management practices and industry data for the necessary resources needed in the state.

The Office of Rail Safety should conduct a detailed and comprehensive assessment of the entity responsible for providing and maintaining equipment caches, the accessibility of equipment caches and the equipment within the cache, coordinated training of first responders and railroad operators, clarification of roles and responsibilities, identification of areas of concerns to include geographic accessibility, vulnerable environmental assets including waterways, protected lands, crossings that experience high traffic volume (including vehicle, pedestrian and bike traffic), and population dense areas.

Of specific concern is the quality and context of the contact list for emergency response of the DERA's and overall communication between rail employees and first responders during incidents, which 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.

11:10 am

**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.

11:20 am

**Ongoing Meetings:**

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