

# United States Senate

WASHINGTON, DC 20510

July 6, 2023

The Honorable Pete Buttigieg  
Secretary  
United States Department of  
Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

The Honorable Tristan Brown  
Deputy Administrator  
Pipeline and Hazardous Materials Safety  
Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Secretary Buttigieg and Deputy Administrator Brown:

We write today in strong support of the proposed rule from the Pipeline and Hazardous Materials Safety Administration (PHMSA) requiring railroads to share real-time train consist information with emergency responders [Docket No. PHMSA-2016-0015 (HM-263)]. The disastrous Norfolk Southern derailment along the Ohio-Pennsylvania border demonstrated just how essential this policy change is to put firefighters and other first responders in the best position to keep their communities and themselves safe in times of crisis.

The recent hearings held by the National Transportation Safety Board (NTSB) in East Palestine, OH have highlighted how insufficient information-sharing policies put emergency responders in harm's way during the February 3<sup>rd</sup> derailment. During the hearing, NTSB Chair Jennifer Homendy noted that while Norfolk Southern notified a contractor about the specific contents of the derailed train within 12 minutes, the Columbiana County Emergency Management Agency did not get that information until an hour after the derailment. We also learned that one of the fire chiefs assisting with the derailment did not get the consist information until after 10:20 pm and that the East Palestine Police Department did not receive it until 1:30 in the morning.<sup>1</sup>

This delay is unacceptable. The brave first responders who put their lives on the line to protect their communities during train derailments should not have to deal with both hazardous conditions and an intentional lack of critical information. As more first-hand stories from emergency responders in East Palestine, OH and Darlington Township, PA come out, the clearer it becomes that the federal government needs to take decisive action to ensure that failures like this do not happen again.

To that end, we are encouraged to see PHMSA issue this notice of proposed rulemaking, which is grounded in expert recommendations from the NTSB, Congressional mandates from the Fixing America's Surface Transportation Act, and the lived experiences of emergency responders.<sup>2</sup> If implemented, this proposed rule could save lives.

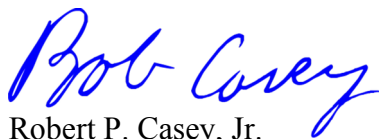
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<sup>1</sup> National Transportation Safety Board. "Investigative Hearing: Norfolk Southern Train Derailment w/ Subsequent Hazmat Release and Fires." June 22, 2023. 3:06:00. <https://www.youtube.com/watch?v=N-nBIg516b0&t=10479s>

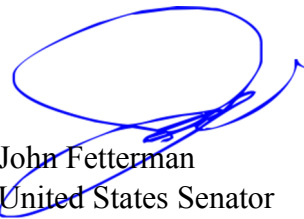
<sup>2</sup> Section 7302 of the Fixing America's Surface Transportation (FAST) Act (PL 114-94) required Class I railroads transporting hazardous materials to "generate accurate, real-time, and electronic train consist information..." and to "provide advanced notification and information on high-hazard flammable trains to each State

We owe it to the first responders of East Palestine, Darlington Township, and the surrounding areas in Ohio and Pennsylvania to ensure that the information-sharing failures of this derailment, which put first responders needlessly and irresponsibly in additional danger, do not happen again. While Congress considers additional legislative action on this issue, including the bipartisan, bicameral *Railway Safety Act*, we are glad to see administrative action on this issue and give this effort our full support.

Sincerely,



Robert P. Casey, Jr.  
United States Senator



John Fetterman  
United States Senator



Sherrod Brown  
United States Senator

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emergency response commission...” This statutory language built on recommendation R-07-4 from the National Transportation Safety Board (NTSB), which recommended that the Federal Railroad Administration “require that railroads immediately provide to emergency responders accurate, real-time information regarding the identity and location of all hazardous materials on a train.