



Improving Rail Safety in the Aftermath of the East Palestine Derailment

Statement of

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presented to the

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Good morning Chair Cantwell, Ranking Member Cruz, and distinguished members of the Committee. My name is Chip Comstock and I have served as the fire chief of the Western Reserve Joint Fire District (which I'll refer to as the District) for 25 years. My department serves the Township and Village of Poland, Ohio, which are suburban/rural communities located in southeastern Mahoning County. Mahoning County is located approximately 10 miles north of East Palestine.

The District was first established in 1923 as a volunteer department and remains so today with approximately 60 active fire suppression and EMS personnel. We respond to approximately 1,900 incidents each year from three stations and protect over 15,000 people in a 21-square-mile primary response area. The District also provides automatic mutual aid and mutual aid to two cities, two villages, and four townships in Ohio and two townships in Pennsylvania. Both CSX and Norfolk Southern Railways transverse the District. The District assisted with the emergency response to the East Palestine derailment and detonation.

I have also been a member of the National Volunteer Fire Council (NVFC) for over a decade. The NVFC serves as the national voice for over 670,000 volunteer firefighters comprising 65% of the nation's fire service. Since 1976, the NVFC has been the leading nonprofit membership association representing the interests of the volunteer fire, EMS, and rescue services. The NVFC provides critical resources, programs, education, and advocacy to support the interests of volunteer first responders across the nation, including hazmat and rail safety. I appreciate the opportunity today to discuss the response to the East Palestine incident and what we've learned we need so far to improve hazmat incident response and rail safety.

The District's Response to East Palestine:

More than 50 fire departments were called to the scene of the East Palestine derailment. My department responded to East Palestine as part of a countywide response on February 3, 2023. Following the derailment, the East Palestine dispatcher contacted Mahoning County and requested all water tenders/tankers that could be provided as well as additional engines. We were a part of that broader response.

Our assignment was to a burning structure immediately adjacent to a burning rail car. We were called back to the scene on Monday to continue to assist with on scene operations for the detonation. Following the East Palestine incident, it became clear that additional hazmat incident training needs to be available for first responders, along with improved on scene communication and coordination.

Fortunately, firefighters from my department did not experience any apparent immediate health issues, although many other firefighters did. Early post-incident baseline medical examinations were performed for my department, but many other departments were not as fortunate to receive early baseline examinations. The turnout gear and Self Contained Breathing Apparatus (SCBA) firefighters exposed to the rail car contaminants were taken out of service. Temporary rental replacement gear is now being used until the months long process of ordering replacement gear is completed. The engine that was closest to the burning buildings is also in the process of being examined for any signs of deterioration due to the chemical exposure.

Recommendations in the Aftermath of the East Palestine Response:

The East Palestine derailment has emphasized the need to better train and equip first responders to respond to hazardous materials incidents, and specifically, to derailments of this nature in rural areas, which are often served by volunteer departments that lack the resources (equipment, training, and support), tax base, and manpower of their suburban and urban counterparts. Additionally, first responders' exposure to toxic chemicals while responding to East Palestine highlights the need for enhanced methods for emergency hazmat product identification and the need to make the funding for baseline medical testing and follow-up examinations available to all responders to hazmat incidents.

Increase Support for PHMSA Hazardous Materials Grants:

As the Federal Rail Administration and this Committee have stated, the number of hazmat cars involved in derailments has been increasing in recent years. In 1986, there were 1,411 hazardous materials cars involved in derailments; by 2021, that number had increased by 339 percent to 6,204. Additionally, according to National Fire Protection Association (NFPA) the annual number of fire department calls involving hazardous incidents has also increased considerably from 171,500 in 1986 to 420,000 in 2020. East Palestine and other incidents in the transport of hazardous materials have demonstrated the need for local fire and emergency services to be prepared for such incidents.

According to the NFPA's 2020 U.S. Fire Service Needs Assessment, 70 percent of fire departments provide hazardous materials response and it is more common for fire departments to provide this service than emergency medical services (EMS). This is even the case in smaller departments.

The NFPA Needs Assessment surveyed departments on four levels of professional competence for responders to hazardous materials incidents. They were: no certification, awareness, operational, and technician. The NFPA defines operational as:

“first responders trained at this level must meet the National Fire Protection Association's awareness level training as well as any additional competency designed to allow the responder to implement or support actions to protect nearby persons, the environment, or property from the effects of the release.”

Of the departments surveyed, only 55% of personnel performing hazmat duties were certified at an operational level of competence. According to the 2020 U.S. Census, the population of East Palestine is 4,761. Of departments surveyed that serve populations between 2,500-5,000 people, only 53% of personnel performing hazmat duties were certified at an operational level of competence. This level of certification drops to 38% in departments that serve populations less than 2,500, with 23% of personnel having no certification at all. This data presents a safety and security risk not only to the responders themselves, but also the communities that they protect.

This data is particularly alarming considering that 65% of the nation's fire departments serve a population of less than 5,000 people. The needs of departments serving this population size are of particular importance to the NVFC, because 98% of departments serving populations of less than 2,500 are either all volunteer or mostly volunteer and 96% percent of departments serving populations between 2,500 and 4,999 are either all or mostly volunteer.

For many firefighters, hazmat training is difficult to access and/or cost prohibitive. When it is accessible, it is often very difficult for firefighters to attend trainings due to lack of flexibility, time, and funding. These pressures are often exacerbated for volunteer firefighters because they have to take time off from their paying jobs and/or time away from their families to attend training and are often not reimbursed for this time.

In recent years there has been some progress made in making hazardous materials training more readily available to firefighters through the Pipeline and Hazardous Materials Safety Administrations' (PHMSA) hazardous materials grants, specifically, through the Hazardous Materials Emergency Preparedness (HMEP), Assistance for Local Emergency Response Training (ALERT), Hazardous Materials Instructor Training (HMIT), Community Safety (CS), and Supplemental Public Sector Training (SPST) grant programs.

- **HMEP Grants:** For HMEP grants Governors in each State, or their counterparts within Territories or Tribes, designate an agency to receive the HMEP grant funds. Agencies submit grant applications to PHMSA annually requesting funds for proposed activities. PHMSA reviews and evaluates applications to make certain the proposed activities support the program mission to ensure the safe transportation of hazmat. If approved, PHMSA offers the agency a Notice of Grant Award (NGA) for acceptance and signature. Once executed, the agency may distribute grant funds in accordance with the planned activities identified in the grant application within the State, Territory, or Tribe to Local Emergency Planning Committees (LEPCs) and first responder organizations. The HMEP grant program is designed to allow grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis. We strongly recommend that there be more of an impetus to see that these funds are directed to training front-line first responders in core Occupational Safety and Health Administration (OSHA) and/or NFPA response competencies such as Awareness, Operations, Technician, Specialist, and Incident Command, including refresher trainings.
- **ALERT Grants:** The ALERT grant is competitively awarded to non-profit organizations capable of delivering an established curriculum to emergency responders. This grant promotes hazmat response training for volunteer or remote emergency responders. Response activities include the transportation of crude oil, ethanol, and other flammable liquids by rail consistent with NFPA standards.
- **HMIT Grants:** The HMIT grant is competitively awarded to non-profit organizations that have expertise in conducting hazmat employee training programs and are capable of reaching a target population of hazmat employees and including them in the training program. Both career and volunteer first responders are “employees”. This grant funds train-the-trainer program that facilitates the training of hazmat instructors who then conduct training in Hazardous Materials Regulations (HMR) for hazmat employees.
- **CS Grants:** The CS grant is competitively awarded to non-profit organizations. The CS grant enhances the capability of communities to prepare for and respond to hazmat accidents and incidents and supports the training of state and local enforcement personnel who are responsible for enforcing the safe transportation of hazmat.

- **SPST Grants:** The SPST grant is competitively awarded to national non-profit fire service organizations. This grant is a train-the-trainer program that facilitates the training of instructors who then conduct training in hazmat response for individuals with a statutory responsibility to respond to hazmat accidents and incidents.

Through a SPST grant the NVFC is able offer a hazmat train-the-trainer program: Partners in Training (PIT) Crew. This project will help first responders gain the knowledge and skills they need to train others in their communities on hazmat safety and response. Through this program the NVFC is providing 15 in-person training opportunities across the U.S. at no cost to departments.

Through this program, the NVFC is making hazmat training more accessible to departments around the country. The train-the-trainer aspect magnifies this program's impact by preparing hazmat trainers to go back to their home departments and regions and spread the knowledge they have attained. It is very important that the NVFC has the ability to provide this program at no cost to volunteer departments because many of these department serve rural areas that lack a tax base to support funding for basic firefighting equipment like turnout gear and SCBAs, let alone hazmat training.

Thanks to ALERT, CS, and SPST grants, the NVFC and other non-profit organizations that serve first responders have been able to provide hazmat incident response training to tens of thousands of firefighters. As seen in the data above we still have a long way to go to ensure that all firefighters who respond to hazardous incidents are properly trained to do so. The NVFC asks that Congress pass legislation that will increase funding to HMEP, ALERT, HMIT, CS, and SPST grants. The NVFC would also urge congress and PHMSA to ensure that HMEP and HMIT grant funds reach their intended recipients – the front line first responders – Fire, EMS, and Law Enforcement. The NVFC is pleased to see that S. 576, *Railway Safety Act of 2023* includes language that increases support to the ALERT and Supplemental Training grant programs and sincerely thanks Senator Brown, Senator Vance, Senator Casey, Senator Rubio, Senator Fetterman, and Senator Hawley for their leadership.

Provide Funding for Hazardous Materials Regional Response Teams:

An incident as large as East Palestine requires a regional response. In addition to providing additional funds to existing PHMSA hazardous materials grants, the NVFC requests that Congress support initiatives to fund Hazardous Materials Regional Response Teams to facilitate regional public safety communications and coordination on hazmat response, region focused training, equipment, and sharing of best practices.

Additional Support for LEPCs:

Local Emergency Planning Committees (LEPCs) provide a forum for local stakeholders to work together to identify chemical hazards, develop and maintain emergency plans in case of an accidental release, and encourage continuous attention to chemical safety, risk reduction, and accident prevention in their communities. Stakeholders that participate in LEPCs are first responders, state and local elected officials, emergency managers, industry representatives, hospital and public health officials, and the media. Because of their broad-based membership, LEPCs can foster a valuable dialogue within the community to prevent and prepare for accidental and terrorist-related releases of hazardous chemicals.

The role of LEPCs is a critical and foundational element in providing the hazard, risk, and capability assessments needed by the response community. These assessments should be followed by strategic planning at the community level to prioritize and fill capability gaps. Likewise, these LEPC efforts will require sustained support at the national, state, and local levels. The NVFC asks that Congress provide additional funds to LEPCs through PHMSA and the Environmental Protection Agency (EPA) to ensure this sustained support is provided.

Support More Enhanced Methods for Emergency Hazmat Product Identification:

A major concern in the immediate response to the East Palestine derailment was the lack of knowledge of what hazardous materials were contained in the derailed train cars. Each car that contained a hazardous materials was placarded, but the heat of the fire melted the placards identifying the contents of the cars. The NVFC requests that we, the NFPA, Congress, Nation Transportation Safety Board, and Federal Rail Administration work together to enhance the methods for emergency hazmat product identification.

Increase Support for AFG and SAFER Grant Programs:

The Federal Emergency Management Agency's (FEMA) Assistance to Firefighters Grant (AFG) program and Staffing for Adequate Fire and Emergency Response (SAFER) grants are by far the most significant sources of assistance that the federal government provides to local fire departments. The goal of the AFG and SAFER programs is to bring all of the nation's fire departments up to a baseline level of readiness, which includes the purchase of essential equipment to respond to hazmat incidents. This funding is particularly important for all- and mostly-volunteer fire departments, which protect 82 percent of the nation's communities and 30 percent of the population.

As the NFPA data referenced earlier shows, rural areas are almost exclusively protected by volunteers. Unfortunately, NFPA Needs Assessment studies consistently show that volunteer agencies have difficulty affording up-to-date equipment, training, and SCBAs. This is primarily for economic reasons. Because fire protection services are funded at the local level, the resources available to each department are dependent on the local tax base. For smaller communities that can mean having to engage in private fundraising and rely on older equipment and vehicles in order to maintain operations.

These pressures are exacerbated by the fact that the number of fire department calls increased by 23% to more than 36.4 million from 2010 to 2020, while during this same ten-year period the number of volunteer firefighters dropped by 12% nationwide. Additionally, data from the Congressional Fires Services Institute show that since 2019, the average cost for turnout gear has increased by approximately 35-40%, while the cost of fire SCBAs has increased around 32%. According to the NFPA Need Assessment, more than half of all fire departments cannot equip everyone with SCBAs. Departments protecting less than 9,999 people have the highest rates of unmet need for SCBA equipment.

- **AFG Grants:** AFG grants help meet the firefighting and emergency response needs of fire departments and non-affiliated emergency medical service organizations. AFG funds are used to obtain critically needed equipment, protective gear, emergency vehicles,

training, and other resources necessary for protecting the public and emergency personnel from fire and related hazards.

- **SAFER Grants:** SAFER grants directly assist fire departments and volunteer firefighter interest organizations with firefighter retention and recruitment efforts in their communities. SAFER funds provide the resources needed to enhance the local fire departments' abilities to comply with staffing, response, and operational standards.

NVFC requests that Congress enact legislation that will increase funding to AFG and SAFER grant programs. Additionally, the authorization for AFG and SAFER grants expires at the end of this fiscal year and these programs are scheduled to sunset at the end of FY 2024. The Senate has introduced S. 870, *Fire Grants and Safety Act*. The NVFC strongly supports this important legislation which will extend the authorization of AFG and SAFER through FY 2030 and urges Congress pass this legislation as soon as possible. The NVFC sincerely thanks Senator Peters, Senator Collins, Senator Murkowski, and Senator Carper for their leadership on this important legislation.

Encourage Broader Implementation of NIMS:

Large incidents like East Palestine that require a response from multiple jurisdictions and state, local, and federal agencies emphasize the need for communication and coordination among first responders and the need to adopt protocols like FEMA's National Incident Management System (NIMS). NIMS is a comprehensive, national approach to incident management that is applicable at all jurisdictional levels and across functional disciplines and the full spectrum of potential incidents, hazards, and impacts, regardless of size, location, or complexity.

NIMS provides stakeholders across the whole community with the shared vocabulary, systems, and processes to successfully carry out a multi-agency response to emergencies. NIMS also defines operational systems that guide how personnel work together during incidents. The NVFC encourages Congress to provide additional funding and support to FEMA and the U.S. Fire Administration for the local delivery of additional NIMS training courses. As mentioned earlier, volunteer first responders face unique obstacles when it comes to training due to having to juggle the obligations of their full-time careers along with their obligations to the fire service.

Fund Post Exposure Baseline and Follow-up Medical Testing on First Responders:

Firefighters face a 9% higher risk of developing cancer and a 14% higher risk of dying from cancer compared to the general public. The NVFC has supported several initiatives to combat the threat of firefighting related cancer exposure. Most notably the NVFC collaborated with the International Association of Fire Chiefs' Volunteer and Combination Officers Section to produce the *Lavender Ribbon Report*, which is a comprehensive best practice guide to reduce toxic exposure risks and prevent firefighter cancer.

The aftermath of East Palestine has emphasized the need for much more work to be done to improve the prevention of firefighter cancer and other health issues. Those who responded to the East Palestine incident from the Western Reserve Joint Fire District received post incident baseline health screenings, but many other firefighters who responded did not receive these screenings.

Preventive screenings can identify cancer and other health risks at their earliest stages when positive treatment outcomes are more likely. However, it remains difficult for individual firefighters to receive early screenings as current screening guidance does not account for their occupational exposures. Every firefighter who responds to an incident where they are exposed to hazardous materials, like in East Palestine, should receive baseline and follow-up health screenings.

These screenings will not only protect firefighters and save resources by preempting potential health complications, they will also enable researchers to learn more about the impact of hazardous exposures on firefighters and the potential conditions they may develop as a result of these exposures. We need to take a proactive rather than a reactive approach when it comes to firefighter healthcare. The NVFC ask that Congress pass initiatives that would fund baseline and follow-up health screenings for firefighter who have been exposed to hazardous materials incidents involving hazardous materials like East Palestine.

Conclusion:

I thank you for the opportunity to address the Committee regarding the hazardous materials response and rail safety needs of volunteer first responders. As the community of East Palestine recovers, the NVFC looks forward to continuing to work with the Committee and the stakeholders assembled here today to ensure incidents like this don't occur again. We also look forward to working together to improve the emergency response to hazmat incidents and ensure that firefighters are properly trained and equipped to carry out this response.