

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

**Proposed Amendments to 52 Pa. Code
Chapter 33 to Enhance Railroad Safety
Requirements**

**Public Meeting held February 19, 2026
3060023-CMR**

MOTION OF COMMISSIONER KATHRYN L. ZERFUSS

I. Introduction

On February 3, 2023, a Norfolk Southern freight train carrying hazardous materials derailed near East Palestine, Ohio, approximately one quarter mile from the Pennsylvania state line in Beaver County. This significant derailment resulted in several rail cars burning for more than two days and emergency personnel conducting controlled burns of several cars, which released hydrogen chloride and phosgene into the air. Residents within a one-mile radius of the accident were evacuated. As we mark the third anniversary of the toxic train derailment in East Palestine, Ohio, Pennsylvania communities continue to live with the risks of hazardous materials moving through population centers while comprehensive federal rail safety reform remains stalled despite new bipartisan efforts like the Under Pressure Act, which specifically addresses communication failures and incorporates rail safety mandates into the 2026 Surface Transportation Reauthorization.

The East Palestine tragedy and other rail-related incidents highlight the need for stronger, commonsense safety regulations in Pennsylvania. Even most recently, on January 26, 2026, thirteen train cars derailed in Old Forge, Lackawanna County. On September 19, 2025, a Messiah University student tragically lost his life after being struck by a train near campus. In the Lehigh Valley in March 2024, a cascade collision of three trains spilled diesel and plastic pellets into the Lehigh River, resulting in injury and causing millions of dollars in damages. In 2017, catastrophe was narrowly avoided when a train derailment in Bedford County forced evacuations after hazardous materials spilled.

The Pennsylvania statistics maintained by the Commission's Bureau of Technical Utility Services' Rail Division (TUS Rail) show that for accidents involving vehicles and pedestrians at rail crossings, there were thirty-one fatalities and twenty-five injuries in 2025; twenty-six fatalities and twenty-one injuries in 2024; twenty-four fatalities and thirty injuries in 2023; and twenty-five fatalities and twelve injuries in 2022. TUS Rail also received sixty-one reports of derailments for the years 2023-2025. With respect to the rail-highway bridges under the Commission's jurisdiction, there were approximately seventeen emergency repairs, bridge postings, and closures within the past three years.

Based on the prevalence of rail safety incidents, particularly the large-scale East Palestine accident, many states, including Pennsylvania, have examined ways to improve railroad safety and prevent similar accidents from occurring in the future. As part of our rail safety review at the Commission, I have closely evaluated current Pennsylvania law, federal law, and the laws of other states to formulate the basis for amendments to the Commission's railroad regulations. Given that the Commission's railroad regulations, 52 Pa. Code Chapter 33, have not been amended since 2013 and because there have been many technological and operational advancements in safety for the rail industry, I am motioning to initiate a proposed rulemaking to enhance the Commission's rail safety requirements.

II. Commission's Legal Authority and Responsibilities

Railroad regulation tends to be centered at the federal level to promote uniform standards, particularly where interstate commerce is concerned. Accordingly, the Federal Railroad Administration (FRA) established universal standards governing many areas of rail service. The Federal Railroad Safety Act (FRSA), 49 U.S.C. § 20101 *et seq.*, and the regulations promulgated thereunder, are nationally uniform, and generally preempt state laws covering the subject matter, except under specific circumstances set forth in 49 U.S.C. § 20106. *See also United Transp. Union v. Pa. Pub. Util. Comm'n*, 68 A.3d 1026 (Pa. Commw. 2013). Thus, the Commission may follow a statute or adopt regulations, policies, or orders that relate to railroad subject matters that are not covered by federal law. However, even if a federal regulation or order covers the subject matter of a state law, regulation, or order relating to railroad safety, the state may still adopt a more stringent statute, regulation, policy, or order related to railroad safety or security if that law: (1) is necessary to eliminate or reduce a local safety or security hazard; (2) is compatible with federal law; and (3) does not unreasonably burden interstate commerce. 49 U.S.C. § 20106(a)(2). There are some areas where the FRA has decided that local regulation is the preferred approach to ensure safe service. For example, the FRA has deferred to states to determine what protections are best at rail-highway crossings, and many of the Public Utility Code provisions and the Commission's regulations pertain to these matters.

The Commission's statutory authority over rail crossings is found at 66 Pa. C.S. §§ 2702-2704. Section 2702, relating to construction, relocation, suspension, and abolition of crossings, is the section we rely on when determining which parties are responsible for inspection, repair, maintenance, and the costs associated with each, both during and after a crossing project. Additionally, Chapter 33 of the Commission's Regulations, 52 Pa. Code Chapter 33, pertain to railroad transportation. The Regulations include a notification requirement that railroads must report accidents to the Commission, consistent with the FRA requirements. 52 Pa. Code § 33.12. The Regulations also include general provisions on protection of crossings at grade, construction, alteration, or relocation of crossings, train operations, and standards for clearances, including overhead and side clearances, and clearances between parallel tracks.

The Commission has a Rail Safety Inspections Group and a Rail Safety Engineering Group that carry out the responsibilities within our statutory authority and regulations. The work performed by the Rail Safety Inspectors is done in conjunction with FRA Inspectors. Those efforts are part of a tri-layer system of rail safety inspections in Pennsylvania, which also includes regional inspectors from the FRA and specialized personnel from the railroads. Any

concerns identified during Commission inspections are submitted to the FRA for review, and any resulting enforcement actions come under federal rail safety regulations and standards. Enforcement powers, including decisions about which violations to prosecute and how those cases are resolved, fall within the discretion of the FRA under federal law.

The Rail Safety Engineering group oversees highway-railroad crossings throughout Pennsylvania, including at-grade crossings, where public roads cross railroad tracks; bridges carrying public roads over railroads; bridges carrying railroads over public roads; and bridges carrying railroads over other railroads. Rail Safety Engineers are involved in an average of 180 formal proceedings per year – from field meetings and site inspections to formal conferences regarding repair, replacement, safety upgrades, and other enhancements. Safety enhancements to crossings can range from projects to upgrade active warning devices, such as lights and gates, to the replacement of at-grade crossings with bridges.

III. Amendments to the Commission's Railroad Regulations, 52 Pa. Code Chapter 33, to Enhance Safety Requirements

In amending the Commission's railroad Regulations, the Commission should consider the following:

Wayside Detector Systems¹

Wayside detector systems are not currently covered in federal regulations. Commission Rail Safety Inspectors have begun discussing these systems with railroad operators; however, the FRA has not yet developed a training program for the inspection of wayside detector systems. In implementing wayside detector requirements in Pennsylvania, the Commission should consider current federal guidelines and safety advisories as well as Ohio's statutory

¹ Wayside detectors are a network of electronic devices that are installed along railroad tracks and scan passing trains for safety and mechanical issues. These systems use technology like infrared, laser, and video to monitor things like wheel and bearing temperatures to the overall dimensions and load of railcars and locomotives. When a potential problem, such as an overheating bearing or dragging equipment, is detected, an alert is sent to the train crew and dispatch center to allow for immediate inspections and repair to prevent derailments. There are several varieties of wayside detectors in the rail industry to monitor equipment performance and identify rolling stock defects and irregularities. These detectors are designed to reduce risk in railroad operations by identifying poorly performing equipment before accidents occur.

provisions as a model.² Ohio's law calls for ensuring that wayside detectors are properly installed, maintained, repaired, and operational; that the distance between wayside detector systems is appropriate; and that railroads have defined, written standards and training for their employees on responding to wayside detector system defect alerts. *See* O.R.C. §§ 4955.51-4955.57. The Commission should also consider including enforcement provisions and provisions for certain exemptions for smaller railroad companies, as well as deviations from the spacing requirements under certain circumstances.

- **Post-Inspection Compliance Report**

Currently, there is no federal requirement for a railroad operator to demonstrate compliance with the applicable law following an inspection identifying non-compliance. This regulatory proposal would require a railroad operator to submit a report to the Commission demonstrating compliance with the applicable federal law following inspections identifying defects and/or recommended violations.

- **Train Speed Limits**

While federal law does have specific speed limits for trains based on the track classification and the train type, 49 C.F.R. § 213.9, many states preserve their authority to regulate train speed, particularly when it is necessary to reduce a local safety hazard and address safety concerns at railroad-highway crossings. As other states have done, Pennsylvania should consider a regulation that preserves the Commission's safety authority to reduce local safety hazards and safety issues at railroad-highway crossings. Using California and Oregon laws as a guide, the Commission could implement speed restrictions when the restriction is required due to track condition, alignment, curvature of tracks, superelevation, or inadequate right-of-way protection, and higher speeds will have an adverse impact upon the health and safety of the public until the conditions are changed. *See* O.R.S. § 824.208; West's Ann. Cal. Pub. Util. Code § 7660.

² Following the East Palestine derailment, the FRA has issued supplements to its safety advisory (Safety Advisory 2023-01), with the most recent supplement in July 2024 including recommendations for railroads on analyzing wayside detector data to evaluate trends in equipment condition; sharing wayside detector data between railroads; ensuring that adequate staff is monitoring and responding to wayside detector data; and adopting best practices for inspecting and maintaining wayside detectors. The FRA also published an *Implementation Guide for Wayside Detector Systems* in 2019, which includes, *inter alia*, descriptions of various wayside detection technologies and recommendations for implementing a new wayside detector system, including site selection criteria, data communication, test requirements, system thresholds, an action plan for triggered events, and calibration/maintenance requirements.

- **Analysis of Routes and Emergency Response Procedures for Trains Carrying Hazardous Materials**

This proposal would require the railroads to conduct an analysis of routes for high-hazard flammable trains, accounting for proximity to populated areas and safety considerations. It would also require the railroads to provide the Commission with their emergency procedures/guidelines for trains carrying hazardous materials. Access to this information is essential if a hazardous materials derailment occurs in Pennsylvania.

- **Providing Information to the Commission on Which Entity is Responsible (Partially or Fully) for Bridge Inspection, Maintenance, and Repair**

This proposed requirement would provide the Commission with information from the railroads about which entities are responsible for bridge inspection, maintenance, and repair on the rail-highway crossings under the Commission's jurisdiction. Ohio has a statutory reporting requirement that mandates railroads to file a complete list of all bridges located entirely or partly within the boundaries of the state for which they are wholly or partially responsible for the inspection, maintenance and repair. The railroads are also required to file and maintain an up-to-date map showing the name, number or other description and location of each such structure. See OH ADC § 4901:3-1-03.

IV. Conclusion

These revisions to our railroad regulations will ensure that the Commission's authority and responsibilities are consistent with technological and operational changes that have reshaped the rail industry since 2013. Consideration of the specific amendments discussed above may also help to reduce the number of major rail accidents, including derailments, in Pennsylvania while enhancing emergency response procedures if they do occur. In addition to these five revisions, I ask Commission staff to consider any necessary technical, operational, and procedural updates to the regulations that will promote efficiency, as well as any necessary language updates to address changes in the rail industry or Commission process since the regulations were last updated in 2013.

THEREFORE, I MOVE THAT:

1. The Law Bureau, in conjunction with the Bureau of Technical Utility Services' Rail Division, prepare a proposed rulemaking that includes consideration of the five topics and any necessary efficiency and language updates, as addressed in this Motion.
2. A staff recommendation in the form of a Proposed Rulemaking Order and Annex be submitted for Commission consideration at a Public Meeting within six (6) months.

DATE: February 19, 2026


Kathryn L. Zerkus, Commissioner