Commercial Vehicle Safety Alliance
Improving commercial motor vehicle safety and enforcement

October 17, 2022

Docket Management System
U.S. Department of Transportation,
West Building, Ground Floor
Room W12–140, Routing Symbol M–30
1200Washington, DC 20590-0001

RE: Docket Number: PHMSA-2022-0043
Hazardous Materials: Request for Information on Electronic Hazard Communication Alternatives

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments in response to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) request for information regarding the potential use of electronic communication as an alternative to current, physical documentation requirements for hazard communication.

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

CVSA applauds PHMSA for seeking public comment on the concept of using electronic communication as an alternative to current, physical documentation requirements for hazard communication. We support the use of electronic hazard communication, provided that all stakeholders are involved in the development of the final product. CVSA recognizes the benefits to emergency response, information consistency and timeliness of the information being available to inspectors and emergency responders. Below, please find specific comments related to several of the questions included in the July 11, 2022, notice.

PHMSA Questions:

A. Emergency Response Community and Authorized Officials

1. Identification

   a. *What type of inspection or emergency response organization do you represent (e.g., law enforcement, fire and rescue (including volunteer), emergency medical services, specialized hazardous materials incident response organization, transportation and public works, towing and recovery, etc.)?*
   CVSA is a 501(c)(3) nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives, including the inspectors who conduct inspections on commercial motor vehicles transporting hazardous materials shipped in commerce. CVSA's membership also includes emergency responders.

i. *What level of hazardous materials response training do you have?*
Most of CVSA's members have "awareness level" training, though some have "operations and technician level" training.

ii. *For emergency responders, do you rely on outside support (e.g., state, federal, contract organization) for hazardous materials incident response? Please explain.*
CVSA's membership is diverse. Some CVSA members do their own response and others rely on outside support.

iii. *Approximately how many employees work in your response or inspection organization?*
CVSA has 13,000 members who complete some level of commercial motor vehicle inspection. In addition, approximately 75% of CVSA's members also do emergency response.

b. *Which description below best describes your typical response or inspection area population density and layout?*
CVSA's membership includes all jurisdictions in Canada, Mexico and the U.S. and includes urban, rural and suburban areas.

2. Background (Responsibilities and Capabilities)

a. *Please list or identify any major transportation hubs that handle hazardous materials (e.g., airports, ports, rail yards) or routes (e.g., interstate highways, rail corridors) contained in your response or inspection area*.
CVSA's membership includes all jurisdictions in Canada, Mexico and the U.S., as a result, our members cover all major shipping corridors in the U.S.

b. *For responders, how many incidents involving hazardous materials transportation do you respond to per year, on average? What percentage of your total annual responses is this?*
N/A

c. *For inspectors, how many hazardous materials compliance inspections or investigations do you conduct per year, on average?*
In fiscal 2021, CVSA inspectors completed 2,844,846 inspections, including 171,915 hazmat inspections. CVSA members conducted 169 hazmat investigation reviews.

d. *Approximately what percentage of your response or inspection area is covered by a wireless technology network that supports portable electronic devices capable of communications, data processing, and/or computing?*
This is difficult to quantify but CVSA estimates 75%.

e. *Approximately what percentage of your response or inspection area is covered by a voice-only radio network?*
CVSA estimates 25%.

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

f. *Does your organization currently issue, or do persons in your organization have access to, portable electronic devices in vehicles capable of:*

(1) receiving and displaying hazard communication information?

Approximately 95% of CVSA-certified inspectors have access to portable electronic devices in vehicles capable of receiving and displaying hazard communication information.

(2) accessing the internet consistently during a response or inspection?

CVSA-certified inspectors have access to the internet approximately 75% of the time.

i. *If yes to either, describe the types of devices. Are they available to all persons or units, or only a subset?*

CVSA-certified inspectors have access to all types of devices including phones, tablets and laptops. Specific access varies by jurisdiction.

ii. *If yes to either, do you currently use an electronic system to receive and display electronic hazard communication that specifically identifies the hazardous materials present in a transport vehicle or container? If so, please identify and describe the system, especially how the data is received and transmitted.*

CVSA members do primarily highway transportation enforcement and do not have access to an electronic system with this capability.

iii. *If no to either, are there budgetary or other constraints that would prevent you from upgrading your equipment to accommodate an electronic hazard communication system? Please describe.*

Jurisdictions that do not have access to the equipment cite budgetary issues as the primary challenge. CVSA opposes federal regulatory requirements for jurisdictions to utilize technology without corresponding funding.

3. <u>Responding to a Hazardous Materials Incident (Needs and Systems)</u>

a. *What additional hazard communication information would aid in emergency response, beyond what is currently required in the HMR? What currently required hazard communication information is unnecessary for emergency response? Please provide detailed examples.*

None of the current hazard communication information is unnecessary for emergency response. Any changes made should be replaced with similar or more stringent requirements. More detailed emergency response information that is product specific would aid in emergency response. Examples include safety data sheets that are product specific or other detailed, product specific information for emergency response purposes. The information could be either hard copy or electronic.

b. *How often are paper-based hazard communication documents inaccessible during a hazardous materials incident response? What are the reasons for this inaccessibility? What steps are taken to obtain needed information if the document is not available during an incident?*

CVSA estimates that paper copies are not available 10 to 20% of the time for various reasons, including being unable to locate the shipping papers after the vehicle has been involved in a rollover, the vehicle being involved in a fire, or a release of hazardous materials makes the shipping papers inaccessible. In those cases, the emergency dispatchers or responders on the scene make phone calls to shippers,

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

carriers or other entities who may be able to provide more specific information regarding what hazard materials are present.

c. *Do you use existing system(s) designed to provide electronic information to emergency responders arriving at a scene? And if so, which system(s)? Could these systems be adapted for use in transmission of hazard communication information?*
CVSA members use a variety of different systems.

d. *What role do dispatchers play in obtaining hazard communication information in an incident response for your organization? Do you experience difficulties in relaying information from a dispatcher to responders at a scene? If yes, please explain.*
Dispatchers often play a critical role in relaying hazard communication information, especially in rural areas where no cell service is available. Difficulties often occur because of the normal breakdowns in communication when information is relayed between multiple people. Also, dispatchers often lack a hazmat technical background that creates an additional barrier to understanding and relaying the information accurately.

e. *What are the differences in type, format, and content of hazard communication you need to respond to incidents in different modes (e.g., highway versus rail, vessel, aircraft at airport)?*
CVSA's members primarily do enforcement on highway transportation. They use the shipping papers, placards, labels and markings that are visible and available for emergency response.

f. *To respond appropriately to an incident involving mixed freight and less than truckload (LTL) in the highway mode, do you need additional information on the non-hazardous materials that are being transported alongside the hazardous material?*
The information may or may not be critical but there are cases where the non-hazmat could contribute to the seriousness of an incident. For example, a fire in a mixed load. If possible, having the non-hazmat information available would be preferred.

g. *Are you concerned that increased reliance on electronic devices for emergency response purposes would create a distraction during emergency responses? Why or why not?*
No, if the system is properly developed and training is rolled out and completed, it would not be a distraction.

4. <u>Conducting a Hazardous Materials Inspection (Needs and Systems)</u>

a. *What additional hazard communication information would aid in inspections, beyond what is currently required in the HMR? What currently required hazard communication information is unnecessary for inspection? Please provide detailed examples.*
Product-specific, detailed information, such as the safety data sheet, is not always carried with the shipment. The safety data sheet provides all hazard related information specific to all regulatory agencies. This is very beneficial for situations in which an inspector may have contact with a hazardous material, but the quantity or circumstances do not require emergency response. None of the current hazard communication information is unnecessary for inspection. All communications provide essential information to not only inspectors but first responders as well.

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

b. *How often are paper-based hazard communication documents inaccessible during a hazardous materials inspection? What are the reasons for the lack of information availability? What steps do you take if documents are not available during an inspection?*
CVSA estimates that paper copies are not available 1 to 2% of the time for various reasons. In those cases, the motor carrier dispatchers or inspector will make phone calls to shippers, carriers or other entities who may be able to provide more specific on the hazardous materials. The reasons for inaccessible shipping papers vary; however, improper training over accessibility requirements is usually where the issue lies .

c. *Do you currently use electronic systems for inspections unrelated to hazardous materials and/or hazardous material inspections? If so, please describe. Could systems non-hazardous material inspections be adapted to enhance hazardous material inspections? If so, please describe.*
CVSA members use a variety of different systems.

d. *Are you concerned that increased reliance on electronic devices for inspection purposes would create a distraction during the inspection? Why or why not?*
No, if the system is properly developed and training is rolled out and completed, it would not be a distraction.

5. Preferences for an Electronic Hazard Communication Alternative

a. *How would you like to receive hazard communication documents if electronic transmission were permitted? What format or means would best suit your organization's current equipment and capabilities?*
CVSA does not have a preference regarding how electronic hazard communications are received. However, it is important the information is always available, during an inspection or after an incident. Format does not matter if the information is accessible with any type of device (smart phone, tablet or computer) and doesn't rely solely on cell service.

b. *What format or means would you prefer for the electronic transmission of hazard communication, if there were no limitations on cost or capabilities?*
Format does not matter if the information is accessible with any type of device (smart phone, tablet or computer) and doesn't rely solely on cell service.

c. *Should the information content and format for electronic hazard communication be standardized across all modes, to facilitate recognition in an emergency or inspection?*
Yes, as a best practice this would promote safety across all modes and assist with uniform training and application.

d. *Do you have any recommendations for communicating that electronic hazard communication is in use, such as a standardized visual aid (e.g., a marking or placard) on the exterior of the transport vehicle or container, or other means?*
CVSA recommends a focus group of stakeholders be used to make recommendations on how to best handle this issue.

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

e. *What is your preference for how electronic hazard communication documents should be maintained, transmitted, and overseen?*
CVSA has no preference regarding how electronic hazard communication documents should be maintained, transmitted and overseen. However, the information must be available at the roadside 100% of the time. It must also be compatible with multiple types of devices and systems.

f. *What additional costs, if any, would there be for your organization to successfully utilize electronic hazard communication (e.g., new electronic devices, upgraded data plans, and training)?*
For most CVSA members the cost would be minimal if they are able to utilize their existing infrastructure.

g. *Are there certain scenarios in which electronic hazard communication should not be allowed? If so, please provide examples.*
It should not be restricted if the information is retrievable. If the information would not be retrievable, in a rural area for example, then traditional shipping papers and emergency response information should be the acceptable form presented. Reliance on retrieving shipping papers and emergency response information electronically should not be to the detriment of either the motor carrier or the inspector.

h. *Approximately how much preparation time would your organization need to be capable of using electronic hazard communication during a hazardous materials incident response or inspection?*
Implementation of the use of electronic hazard communication during a hazardous materials incident response or inspection should be phased in over a one-year period to give the jurisdictions time to train their inspectors. CVSA also recommends requiring both initial and regular refresher training.

i. *Do you anticipate new training needs to enable the use of electronic hazard communication? If so, please describe. In particular, describe challenges any new training would pose for your organization.*
Comprehensive, effective training is a critical part of ensuring that implementation of the use of electronic hazard communication during a hazardous materials incident response or inspection is successful.

6. <u>Potential Benefits</u>

a. *Are there benefits for having hazard communication available electronically? Do you have any data that can help us quantify your input? How could benefits be maximized over paper-based hazard communication requirements?*
Electronic hazard communication would be safer and easier for responders to retrieve and may help resolve incidents more quickly. In addition, information communicated electronically would be transmitted and received in a consistent format and would lower the number of errors/mistakes on shipping papers. It would also reduce overall costs by reducing the amount of paper used for hard copies.

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

7. Potential Concerns

   a. *What concerns do you have regarding the use of an electronic hazard communication system in place of paper-based hazard communication?*

      A major concern is accessibility. For example, in rural areas, where no cell or internet is available, it is critical the information be retrievable.

   b. *What concerns do you have regarding the reliability of a wireless technology network in your response or inspection area? How should access to hazard communication be maintained in situations where area utilities are disabled? Should persons who use an electronic system be required to maintain a backup or redundant system?*

      Many CVSA members work in rural areas with poor cell and internet service. Relying solely on cell and/or internet connectivity poses a significant barrier in these areas. A technology, like Bluetooth or block chain, that can store the information on the vehicle is more reliable in these areas. A backup or alternative method would be a best practice so the information can be retrieved 100% of the time.

   c. *What concerns do you have regarding the interoperability of equipment maintained by local/county organizations versus state/federal organizations?*

      Interoperability is always a concern and is often budget related.

   d. *What concerns do you have regarding import shipments into the United States having access to an electronic hazard communication system?*

      They should use the same electronic shipping paper system as U.S. carriers when they get into the U.S. or they should have a hard copy of the shipping paper that is good to the first location in the U.S.

   e. *What concerns do you have regarding the security of electronic hazard communication?*

      The system must be secure and have access limited to those who need the information. Access could be tiered, providing different levels of access based on individual needs.

8. Overall Perspective and Input

   a. *Do you support the use of electronic hazard communication as an alternative to the current paper requirements? Please provide your reasoning.*

      We support the use of electronic hazard communication, provided that all stakeholders are involved in the development of the final product. CVSA recognizes the benefits to emergency response, information consistency and timeliness of the information being available to inspectors and emergency responders.

   b. *Are there any specific knowledge gaps or areas of concern that the Department of Transportation should address, via additional information gathering or research, before authorizing electronic hazard communication on a broad basis?*

      It is imperative that PHMSA engage all impacted stakeholders in the process to ensure the impacted parties understand and support PHMSA's approach. In particular, PHMSA should give consideration to how the program will work for emergency responders and inspectors in rural areas. Their input will be critical to a successful implementation.

99 M Street, SE, Suite 1025 | Washington, DC 20003 | 202-998-1002 | www.cvsa.org

c. *Is there any additional information that you would like to provide to the Department of Transportation for consideration in the development of an electronic hazard communication standard?*
It's important to have a broad base of emergency responders, inspectors, regulators and the regulated community involved in the process, so all stakeholder needs are addressed in the initial build out process.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the opportunity to comment on this proposal and the agency's commitment to safety and stakeholder involvement. If you have further questions or comments, please do not hesitate to contact me by phone at 202-998-1008 or by email at collin.mooney@cvsa.org.

Respectfully,

Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance