

Statement of Mr. Chuck Baker
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United States House Committee on Transportation & Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials

Hearing on “Examining Freight Rail Safety”

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Introduction

As president of the American Short Line and Regional Railroad Association (ASLRRA), the trade association representing the nation’s 600 small business Class II and Class III railroads, I submit this testimony for inclusion in the record of the subcommittee’s hearing.

ASLRRA appreciates the subcommittee holding this hearing on safety throughout the national rail network. Safety is the top priority of ASLRRA’s members. Short line freight railroads operate 24/7/365 in an ever-changing and complex, increasingly demanding environment, working in all weather and overcoming all manner of challenges and conditions to serve our customers. Through it all, our members are constantly focused on ensuring that their employees get home safely at the end of each shift, and that the communities they serve are enhanced and made stronger by the service we provide.

We are eager to share our insight, perspective and suggestions with this panel.

The country’s short line freight rail industry, a vital part of North America’s supply chain, is safe and getting safer.

ASLRRA’s members are Class II and Class III railroads, all of which are classified as small businesses.¹ Our members are critical links in the nation’s freight supply chain, and all are vital engines of economic activity. Together, our members are tied to 478,000 jobs nationwide, \$26.1 billion in labor income and \$56.2 billion in economic value-add. Our members provide a service that approximately 10,000 businesses nationwide rely upon to get goods and products to and from market.²

Short line railroads are especially integral in providing first- and last-mile service, functioning frequently as the first and/or often final link between suppliers and customers who require critical goods and freight. Our members provide this connection in many key industries critical to our country’s economic health, including the manufacturing, agricultural, energy, and chemical sectors.

¹ According to the Surface Transportation Board, a Class II railroad has annual revenues between \$40,400,000 and \$900,000,000; a Class III railroad has revenues below \$40,400,000.

² The Section 45G Tax Credit and the Economic Contribution of the Short Line Railroad Industry, prepared by PWC for ASLRRA (2018).

As the first- and last-mile providers for one in five railcars moving across the country on any given day, short lines interface constantly with the public – shippers, community leaders, motorists, and pedestrians – in the mostly small town and rural communities in which we operate.

Short line owners, executives, and operating personnel are active members of their local communities – you see them in the grocery store, at the PTA meeting, on the ballfields, and in your places of worship. Because short lines are small business owners, and they live and work in the communities they serve, safety is more than a good business decision, it is a steadfast personal obligation.

Recent data from the Federal Railroad Administration (FRA) indicates that this past decade has been the safest ever for freight railroading, and that freight railroading is among the safest industries in the nation.

But our work is not done, and we must never get complacent. We pledge to remain ever-vigilant in driving forward with our safety-first mindset.

ASLRRRA provides key resources to assist railroads in enhancing safety practices.

ASLRRRA has more than one hundred years of history of providing support to small business railroads. Today, our members regularly indicate that the resources provided by the association are critical to their success in all areas of operations – especially safety.

- 1) **Training and education.** We keep safety at the forefront for our members by providing training and education and partnering with the FRA and other subject matter experts for safety-driven content. Education is provided in-person at regional and national events, and via webinars with nearly 200 recorded sessions on a wide variety of topics.
- 2) **Investments in safety.** We advocate in Washington, DC for legislation that makes sense for short lines railroads and the public that we serve. We seek laws that drive public money efficiently toward projects and initiatives that make our operations ever-safer, deliver public good by ensuring access to the U.S. economy for rural and small town America's businesses, and provide family-supporting jobs. This includes grant opportunities and tax credits that ensure that our infrastructure is modern, efficient, and safe.
- 3) **Smart oversight.** We work on behalf of our members with rulemaking bodies such as the FRA, the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the Surface Transportation Board (STB), and the Small Business Administration's (SBA) Office of Advocacy to ensure that regulations drive improvements in safety AND can be reasonably implemented by small businesses. We bring ideas to these agencies to consider in upgrading and modernizing rulemakings that are outdated due to new technologies available, or operational changes. Examples of these efforts include the use of electronic air brake slip systems (eABS), drones for certain types of inspections, and more. Finally, we provide expert advice in rulemakings to ensure there are no unintended consequences for small business railroads.
- 4) **Safety expertise.** We provide industry expertise in safety compliance, including auditing a railroad from a safety perspective, or helping to solve operational challenges. Recently, our staff and member railroads developed a template training program for 49 CFR Part 243 to ensure that all members could complete the intensive required safety training.

- 5) **Honoring safety professionalism.** We honor excellence in safety on member railroads with our [Jake Safety Award](#) program. Hundreds of short line railroads are recognized each year for winning “Jakes with Distinction”, signifying **zero** reportable injuries annually. Our [Safety Person](#) and [Safety Professional of the Year](#) awards recognize exceptional careers in safety and are the industry’s most esteemed honors.

- 6) **Elevating safety practices.** As an eligible applicant for certain federal grant funding programs, ASLRRRA seeks to provide additional resources to short line railroads to elevate safety practices and to implement technology that will lead to safer performance. For example, in partnership with the Iowa Northern Railroad, ASLRRRA was awarded a Fiscal Year 2020 grant through the Consolidated Rail Infrastructure and Safety Improvements (CRISI) program, which will build online and in-person training specifically designed for short line railroads in the areas of operations and safety. Another grant in process through a recent FRA Broad Agency Announcement (BAA) will fund the measuring of environmental impact of practices and technologies that some of our members are currently implementing, while ensuring that safety is not compromised. ASLRRRA also received a grant from the FRA to assist our member railroads with the complexities of implementing PTC.

Short lines invest heavily in infrastructure, increasing safety for employees and shippers.

Short line railroading is one of the most capital-intensive industries in the country. Short lines invest on average 25% to 33% of their annual revenues into maintaining and rehabilitating their infrastructure. Additionally, short lines are often the custodians of expensive bridges and tunnels that were originally built by much larger railroads generations earlier and are now reaching the end of their useful lives. Federal funding opportunities like the CRISI grant program provide short lines with an opportunity to meet these challenges.

Through the short line railroad 45G tax credit and government infrastructure investment grant programs such as CRISI and other important USDOT grant efforts (like Rebuilding American Infrastructure with Sustainability and Equity (RAISE) , Infrastructure for Rebuilding America (INFRA), and the recently created Railroad Crossing Elimination grant program, among others) short lines have been able to upgrade thousands of miles of track to 286K-lb capabilities and rebuild and repair worn-out and outdated bridges, tunnels and rail to improve efficiency and ensure safer operations.

ASLRRRA was pleased to see 24 of 46 Fiscal Year 2021 CRISI grant projects awarded to short line railroads in early June 2022. These projects will make freight rail transportation safer and more affordable than ever in the areas they serve – while providing the most environmentally friendly surface transportation mode available. Upgraded infrastructure will lead to better on-time performance for customers and the ability to handle more freight by rail, taking trucks off the road – decreasing environmental impact and safety concerns for the motoring public – all while delivering better safety performance. The FY21 CRISI grants will provide approximately \$150 million in federal funds for short line infrastructure, which is a very welcome infusion, and combined with approximately \$1 billion in annual private short line investment, will make a meaningful difference in short line safety and service.

Still, there is much, much more work to be done to catch up with our estimated \$12 billion in state of good repair needs. Our members look forward to competing vigorously for future rounds of CRISI funds and putting them to use making the rail network safer for all who rely on it. As the Infrastructure Investment and Jobs Act (IIJA) is implemented and its critical resources are made available, we encourage Congress to robustly fund the CRISI program at the full \$1b annual authorized discretionary appropriations level and the administration to prioritize funding for the many freight rail projects that

enhance safety, while bringing other benefits, like reducing supply chain bottlenecks, advancing environmental solutions and taking highway-clogging trucks off of highways. These projects are often the biggest “bang for the buck” available in surface transportation.

Short Line Safety Institute (SLSI) drives safety culture improvements for short line railroads.

Founded in 2015 to enhance the safety culture on small railroads, the [SLSI](#) is supported by annual appropriations from Congress, via the FRA. Safety culture has been identified as a top priority for the short line and regional railroad industry. Class II and III railroads sometimes lack the resources to conduct comprehensive internal safety culture assessments and evaluations. SLSI was formed to fill this need for smaller, often under-resourced railroads.

The goal of the SLSI and its programs is for the short line and regional railroad industry to perform at an increasingly high level of safety because of a focus not only on compliance, but on *safety culture*, defined as “*the shared values, actions, and behaviors that demonstrate a commitment to safety over competing goals and demands.*”

The SLSI provides several programs, including its flagship [Safety Culture Assessment](#) (SCA), recognized as the [most robust safety culture assessment](#) in the railroad industry, at no cost to railroads. Many of ASLRRA’s members have taken advantage of the staff’s 600 years of collective safety experience and made measurable improvements to safety culture as a result. An analysis conducted by the Volpe National Transportation Systems Center in April 2022, [Implementing SLSI-Provided Opportunities Supports Safety Culture Growth](#), reports that railroads who have completed a second “Time 2” SCA performed by the SLSI experienced measurable overall improvement in safety culture, and in each of the [ten core elements](#) of a strong safety culture evaluated during an SCA.

The SLSI provides Safety Culture Assessments, Leadership Training, and HazMat Training – all delivered in a variety of formats from in-person to videos, to downloadable Posters and Safety Tips for use during a safety briefing.

Short lines partner with industry experts to continuously improve safety.

ASLRRA works closely with a variety of regulatory bodies, and other industry associations, in the pursuit of strengthening safety practices.

One of the strongest partners for ASLRRA members is Operation Lifesaver, Inc. (OLI). OLI is a non-profit organization and nationally-recognized leader in rail safety education. Since 1972, OLI has been committed to preventing collisions, injuries and fatalities on and around railroad tracks and highway-rail grade crossings, with the support of public education programs in states across the U.S.

The largest areas of risk in train-related deaths and injuries are from trespassing and suicide. Many of these incidents happen at grade crossings. These incidents are tragic for all involved from the train crew to the families impacted and the communities where these incidents occur.

ASLRRA’s members provide staff hours to volunteer across the country to educate the public on rail safety. Many short line professionals likewise serve at the state levels of Operations Lifesaver, on boards and as trained presenters.

Our members have helped to support the 82% decline in train/motor vehicle collisions from a 1972 high of roughly 12,000 annual incidents to approximately 2,200 incidents in 2019 through their work with OLI.

Short line railroads urge Congress and the administration to advance safety rules and regulations with known safety benefits and to foster – not hinder – technology and operational practices that improve rail safety.

With safety at the forefront of its members' daily operations, ASLRRA is concerned that the regulatory structure governing the industry fails, in some regard, to meet modern standards and allow for the use of sophisticated technology to more efficiently accomplish tasks that in the past have been done in a now antiquated fashion. ASLRRA shares the strong concerns articulated by representatives of AAR and the country's Class I railroads submitted for this hearing concerning Automated Track Inspection (ATI) activities. We encourage FRA to develop a posture on ATI and use of waivers that advances smart technology – and does not impede its adoption. ASLRRA believes FRA should encourage and incentivize efforts to use technology to make rail safer – not stand in the way of safety efforts with requirements that railroads adhere to now outdated practices. Similarly, ASLRRA encourages FRA to move forward with smarter, more advanced and more modern electronic eABS that replaces outdated methods – and that could eliminate inefficient extra train movements.

Short lines urge FRA to continue its regulatory framework governing excepted track. "Excepted track" is a designation of track on which speed is limited to 10 mph and in which certain types of movements are prohibited or restricted. For decades, short line railroads have used excepted track to serve customers, adhering to FRA rules governing excepted track that ensure safety for workers and the public. For example, these rules require the following: the track must be inspected at the same frequency as Class 1 track; speed on said track is limited to 10 mph or under; there are limits to the number of hazardous materials cars that can be carried; passenger operations are prohibited; and the owner of the track may not designate the track as excepted if the track is close to certain adjacent tracks, near a bridge, public street or highway.

The ability to use excepted track has kept rail service safe and viable for customers and increased public safety by keeping freight off the highway. Proposals that would undermine this framework would harm small business short line freight railroads, disrupt the supply chain, and inject new safety uncertainties in the movement of goods and freight.

ASLRRA also urges the FRA to publish an NPRM on 49 CFR Part 243 training, which codifies the use of training templates developed specifically for small business short line railroads. The templates are critical to ensuring implementable and thorough training procedures on short line railroads, elevating safety.

Finally, ASLRRA is concerned about a rulemaking underway on railroad crew size. The FRA has announced that it will issue a rulemaking requiring a minimum number of crew members on a train in most cases. From what we know, this draft rule has no known, proven, or quantifiable safety benefit. Rather, based on our research and due diligence, it will increase the cost of our members' efforts to provide service to shippers and customers, as many short lines today operate safely with one crew member in the cab, commensurate with the railroads' needs and requirements, or will eventually do so. Any mandate to hire and train more personnel than necessary in rail operations would force small business short line freight railroads to make counterproductive economic decisions between necessary safety upgrades and unnecessary forced hiring. Any mandate stands in stark contrast to the prevailing policy in other modes of transportation that are fostering an increase in unmanned operations – especially in trucking and

automobiles. We strongly discourage any rulemaking that will not deliver a documented safety benefit and has the unintended consequence of making transportation more costly to shippers.

Conclusion

The short line freight industry is safe, and getting safer. We appreciate the subcommittee's attention to our statement. We welcome future opportunities to provide examples of programs the short line industry is supporting to increase safety, and to collaborate on future initiatives.