American Short Line and Regional Railroad Association

Written Testimony

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Hearing on "Getting Back on Track: Exploring Rail Supply Chain Resilience and Challenges"

U.S. House Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines and Hazardous Materials

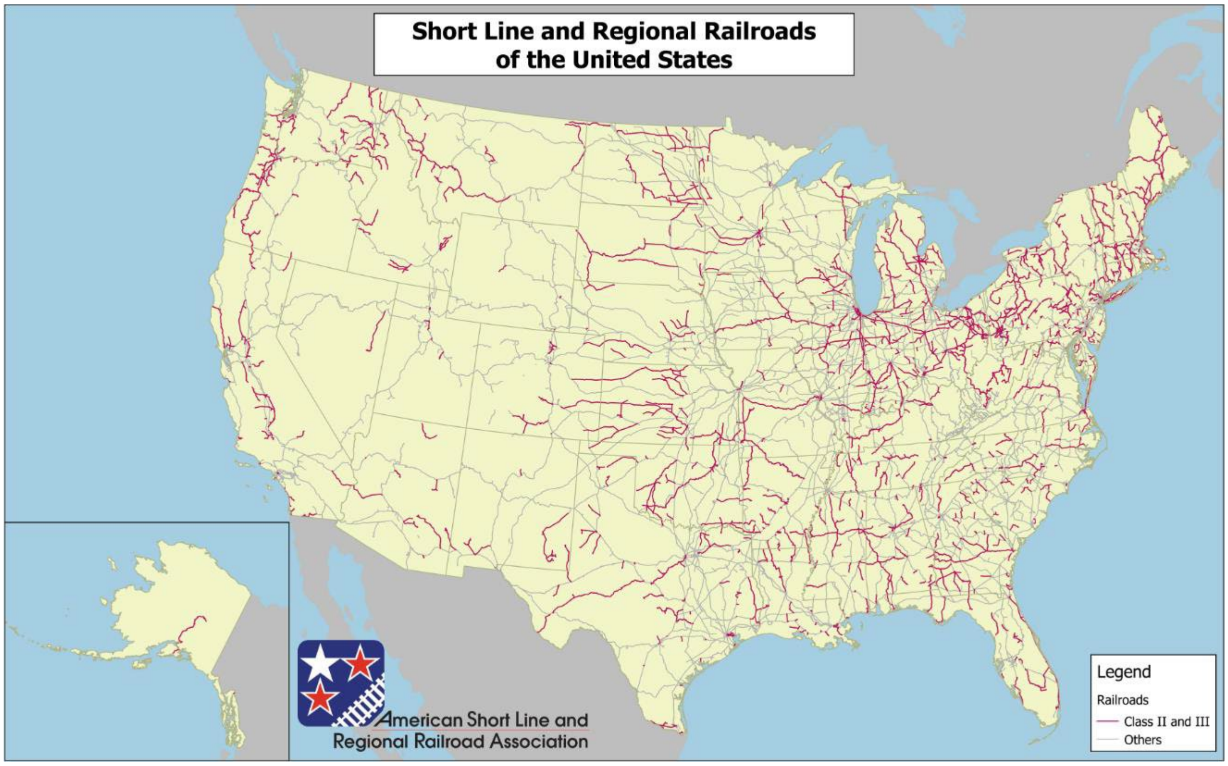
May 11, 2023

Introduction

As president of the American Short Line and Regional Railroad Association (ASLRRA), the trade association representing the nation's 600 small Class II and III freight railroads (commonly known as short line railroads or short lines), and hundreds of their contractors and suppliers, I submit this testimony for inclusion in the record of this committee's hearing.

The Short Line Freight Rail Industry

Short line railroads and the national network. Short lines have been in existence for well over a century and today play a critical role in the country's freight supply chain. Short lines provide first mile and last mile freight rail service, touching one in five railcars on the system. They ensure that businesses in small towns and rural communities that would otherwise be cut off from the North American freight rail network have the access they need to the global supply chain.



Short lines are nearly all small, entrepreneurial businesses. The average short line employs about 30 people, operates about 80 route miles, and earns about $8 million in revenue per year.

The short line industry as we know it today is the product of the Staggers Act of 1980, which made the sale or long-term lease of light density, unprofitable lines from Class I railroads to local entrepreneurs possible and avoided the abandonment of those lines, preserving rail service for thousands of customers nationwide.

However, those sold-off lines came with high hurdles to continuing business operations – decades of deferred maintenance and few remaining customers along the lines. These lines needed significant investment from the moment they became short lines, and that's still the case today, with these small businesses using up to a third of their revenues for maintenance and improvements, making short line railroading one of the most capital-intensive industries in our nation.

Despite those challenges, the short line industry has emerged as one of the great American success stories. Short lines have not only kept those marginal lines they inherited viable, but have turned them into small thriving enterprises in many cases. The short line industry now manages one-third of the freight rail network and touches one-fifth of all carloads while still only accounting for 6% of the total revenue. Short lines pride themselves on doing more with less and making it work.

The country's short line freight rail industry is a vital part of the North American supply chain. Short line railroads provide first- and last-mile rail service. They are the face of railroading for thousands of customers who need to move and receive critical goods. Our members provide this first and last mile connection in many key industries critical to our country's economic health, particularly the industrial, manufacturing, agricultural, energy, and chemical sectors. We also frequently partner with the trucking industry to offer transload and intermodal opportunities for bulk and heavy products throughout the country, everything from paper to rock, potatoes to lumber, metals to minerals, sand to liquids.

As challenges to the supply chain have arisen in recent years, short lines have acted as critical “shock absorbers” for the freight rail network, blunting the impact of supply chain challenges on our customers through our flexible, friendly, responsive, and customized service.

Shippers want to use rail because it is generally less expensive, and sometimes far less expensive, than trucking. Rail can offer capacity for large volumes of freight, and rail helps shippers meet their environmental commitments. Rail however has not always had the reputation of being the easiest or simplest mode to access – it is incumbent on us as a freight rail industry to change that perception and offer consistent, predictable, reliable, easy-to-access service to our customers, and short lines are committed to leading the way on that front.

Short lines are economic engines for localities, particularly in small-town and rural America. Our members are critical links in the nation’s freight supply chain and 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[1] – providing a service that 10,000 businesses nationwide rely upon to get goods and products to market.

At the local level, the availability of rail service provided by short lines is often the tipping point for manufacturers and shippers deciding to locate in the area, driving new, well-paying jobs particularly in rural and small-town America.

We live and work in the communities we serve. Short lines are owned, managed and staffed by individuals who are part of the fabric of their local communities. Because short lines run short distances, employees live and work in the communities they serve. Many short lines are family-run businesses and safety and service is personal. When they’re not moving goods and freight, short line personnel are mixing with their customers at the local grocery store, at the PTA meeting, on the ballfield, and in their houses of worship. Our customers rely upon us to keep their businesses competitive and we take that responsibility very seriously.

We have an impressive safety story to tell. According to Federal Railroad Administration (FRA) data, train accident and hazardous material accident rates for short lines are down 42 percent and 71 percent, respectively, since 2000.

From 2019 to 2022, the overall freight rail industry experienced only 51 derailments with a hazardous material release, and only four of those occurred on a short line railroad. Of the 86 cars carrying hazardous materials that experienced a release in those derailments, only four of those cars were on a short line.

During the same time frame, short line railroads ran an average of approximately 122 million train miles per year. Over that four-year period, derailments have declined from 298 to 254, derailments involving hazardous material cars have declined from 64 to 43, and as noted above, only four derailed cars released hazardous materials in those four years.

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

Our industry is committed to getting these numbers – all derailments, especially derailments with releases of hazardous materials, and reportable incidents – to zero and to keeping them there, but this overall safety context is important to understand before enacting potentially counterproductive regulations or legislation in the name of safety, which I will discuss later in this testimony.

One indication of short lines' safety performance and focus is ASLRRA's annual Jake Safety Award program honoring railroads that have had better than industry-average injury frequency rates per person-hours worked. Since 2000, an increasing number of short lines have received the "Jake with Distinction" designation, indicating **zero** reportable injuries for the calendar year – a remarkable 71% of our members had zero reportable incidents in 2021.

In addition to our awards program, ASLRRA provides an exhaustive offering of programs and training for short line railroad members. Training in topics ranging from regulatory compliance to best practices in environmental sustainability is offered throughout the year via webinars, our Learning Management System, and at our conferences.

Importantly, thanks to grants provided by the U.S. Department of Transportation (USDOT), short lines are supported in their efforts to improve safety culture by the Short Line Safety Institute (SLSI). When looking at safety culture evaluations nationwide, FRA described SLSI's method as *"the most robust model for assessing safety culture in the U.S. railroad industry."*[2] SLSI also provides hazardous materials training for railroads and emergency responders in the communities they serve via grants from the Pipeline and Hazardous Materials Safety Administration.

Short lines' environmental stewardship is strong. The rail industry is a sustainable, environmentally friendly mode of transportation. U.S. Environmental Protection Agency data show freight railroads account for only 0.6 percent of total U.S. greenhouse gas emissions and only 2.1 percent of transportation-related sources (e.g., trucking, air, etc.). On average, U.S. freight railroads move one ton of freight 480 miles, approximately four times as far as our over-the-road competition, on a single gallon of diesel fuel. Short line service alone keeps 31.8 million heavy trucks off highways and public roads, preventing costly wear and tear, relieving congestion, and reducing the number of deadly motor vehicle crashes.

Short lines are committed to doing their part, by continuously seeking ways to reduce their environmental impact with the implementation of technology and operating practices that reduce emissions. For example, the ASLRRA is currently partnering with the FRA and short line railroads to test locomotive emissions by studying fuel injectors and additives. Products like these that increase fuel economy may also yield emissions benefits. This is a two-year project that will give us a better understanding of how small railroads can utilize cost effective methods for reducing their impact on the environment.

Short lines are small enterprises with limited resources. The federal government can provide crucial and impactful help to short lines, but at the same time efforts to regulate problems in the rail space can

[2] FRA Office of Research, Development, and Technology, RR 19-15 | June 2019
https://railroads.dot.gov/sites/fra.dot.gov/files/fra_net/18759/SLSI%20Model%20for%20Assessing%20Safety%20Culture.pdf

impose outsized burdens and demands on these railroads. It is crucial that any new regulatory requirements be directly relevant to a safety benefit and realistic for a small business to implement.

A longstanding body of law, including the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement and Fairness Act (SBREFA), requires that agencies exercise utmost care and discretion in evaluating how regulations they promulgate affect small businesses. Congress should similarly heed the wisdom of these laws before crafting prescriptive updates to the current complex and highly technical regulatory framework. Many small railroads are unable to comply with costly "one size fits all" requirements that are written with larger entities in mind. Each small railroad has a unique operating environment that can differ dramatically from others related to drivers of risk and operating characteristics, such as train length, speed and distances traveled. A Congress that ignores this fact could inflict extreme duress and economic harm on a critical piece of the supply chain – without providing any attendant safety benefit.

<u>Short Lines and the Supply Chain: What Congress Can Do</u>

There are eleven areas in which Congress could act that would both enhance the supply chain and advance safety in our industry:

1. **Support important funding opportunities that help short line freight railroads invest in infrastructure.**

Rail rehabilitation and improvement is critical to both safety AND supply chain fluidity.

Investment drives safety improvements. The largest cause of short line derailments is bad, worn-out track, and the best way to address that challenge is to invest in upgrading that track. Finding the funding is the hard part though. Short line railroading is one of the most capital-intensive industries in the country. As noted above, Short lines invest on average 25 percent to 33 percent of their annual revenues in maintaining and rehabilitating their infrastructure. Short lines are often the custodians of expensive bridges and tunnels that were originally built by much larger railroads years earlier and are now reaching the end of their useful lives.

Federal funding opportunities like the Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant program provide short lines with an opportunity to meet these challenges. As the Infrastructure Investment and Jobs Act (IIJA) is implemented and its critical resources are made available, we encourage both the Biden Administration and Congress to prioritize funding for the many projects for small freight railroads that improve safety AND reduce supply chain bottlenecks. These projects also have enormous environmental benefits and are often the biggest "bang for the buck" available in surface transportation.

CRISI is the one grant opportunity where short lines are directly eligible applicants. ASLRRA appreciates the strong support of so many on this Committee for CRISI and the work it does. In our view, the program should be even more focused on freight rail safety and supply chain improvements than it is today. At the very least, CRISI should not be subject to carve outs for intercity passenger rail as it has been over the past few years and certainly should not be opened up to new entities such as commuter railroads. Commuter and passenger railroads have significant other federal, state, and local funding streams available that are closed to short lines. CRISI should be funded at the fully authorized appropriations levels.

Ensuring critical resources are made available through CRISI and other important USDOT grant efforts (like RAISE, INFRA, the Railroad Crossing Elimination grant program, and the Port Infrastructure Development Program (PIDP)) will allow our members to make safety and supply chain enhancing investments in track upgrades throughout the country.

Investment in infrastructure allows for a more flexible and efficient supply chain. For example, due to legacy track and bridge conditions, many short lines have stretches of track and bridges that cannot accommodate national-network standard 286,000-lb. railcars. CRISI-funded rail upgrades allow short lines to offer the most economic and efficient rail service to shippers from first mile to last with throughput on the same track standard.

CRISI funds can also be used by short lines for network enhancements. Many short lines have legacy track layouts that present challenges in the face of current operational and customer demands. On a short line, relatively modest CRISI investments can add sidings, reconfigure railyards and improve connecting interchange points in ways that are transformative for the operation of the railroad and customer service. CRISI can also be used by short lines to upgrade or replace older locomotives to improve fuel efficiency, reduce maintenance costs, and improve reliability, which benefits operational efficiency and fluidity while reducing emissions.

2. **Support short line disaster relief**.

As climate change continues to impact the movement of freight, we encourage members to consider new programs to assist in rebuilding after a natural disaster. In September 2022, Hurricane Ian devastated Florida and destroyed short line railroad infrastructure. A Class III railroad in Fort Meyers, Florida had estimated damages exceeding $30M. Current insurance policies and federal programs are not able to meet the needs of small railroads who experience damages of this magnitude. As disaster recovery begins, short lines may play a critical role in moving goods in and out of the affected areas, but only if they can themselves recover quickly.

ASLRRA appreciates the efforts of members like Rep. Byron Donalds (R-FL) to advance legislation that would provide emergency assistance to Class II and class III railroads to rebuild critical infrastructure and restore the movement of freight following natural disasters. A bill to this effect was introduced late in 2022 (117th Congress, H.R.9581, Short Line Railroad Relief Act) and we are expecting a similar bill to be introduced shortly in this Congress.

3. **Avoid any effort to increase the size and weight of commercial trucks.**

ASLRRA cautions against any action that could lead to an increase in truck length and weights. Heavier and longer trucks will divert more freight to our roadways and lead to greater wear and tear on already worn-out roads, worsen roadway congestion, increase air pollution and truck GHG emissions, and lead to a litany of hazardous conditions endangering all roadway users.

Moreover, rail is a far more efficient way to move goods and freight. One train can take hundreds of truckloads off our nation’s highways.

Recently introduced proposals, however, would undermine these efficiencies. The SHIP IT Act (H.R. 471) proposes a 10-year pilot program to increase the weight of trucks from 80,000 lbs. to 91,000 lbs. This misguided pilot program has been suggested many times over the years and lawmakers have rejected this concept repeatedly, recognizing the danger these larger trucks would cause to the motoring public, the environment and infrastructure. Raising weight limits would not improve the supply chain – studies have shown that the effect of this action would be more (and bigger) trucks on the roads, as freight was diverted from rail to road.

A 2020 study found that 91,000-pound trucks would divert up to 20 percent of rail carload traffic over a five- year period. The diverted traffic – including hazardous materials, which is particularly concerning -- would end up on our highways, adding more trucks to the road, causing more pavement and bridge damage, and creating more risk for Americans.[3]

4. **Support RailPulse and future initiatives that improve visibility and management of resources.**

RailPulse is a rail industry initiative to improve fluidity and transparency for customers across the country. RailPulse is a coalition of railcar owners, railroads, rail technology providers, and the Pennsylvania DOT who have joined together to facilitate and accelerate the adoption of GPS and other railcar-level telematics across the North American rail network fleet. It will put short lines on a level playing field with other modes of transportation in their ability to locate and manage shipments, correspondingly enabling improved shipper visibility of the location and condition of their rail freight in transit. RailPulse technologies being explored include asset health monitoring of the mechanical elements of railcars which can support reliability and safety, and which will allow for more efficient asset management. I would consider RailPulse to be in the same vein as the USDOT FLOW initiative and the Federal Maritime Commission's Maritime Transportation Data Initiative.

RailPulse is one of many examples of CRISI grant program-funded initiatives that holds the promise of transformational change for our industry. Congressional support of the CRISI grant program at the highest funding levels will allow for many more of these transformative projects to move forward.

5. **Encourage regulations to keep pace with modern operational practices.**

Technology development and best practice implementation have led to safety improvements over time, but some of those developments, such as Automated Track Inspection (ATI), still require permitting or waivers which are not always forthcoming. Congress should support the railroads' move towards ATI rather than letting the FRA mandate the use of potentially outdated manual inspections in all circumstances. This would free up scarce time and personnel resources and improve the supply chain.

ATI technologies can dramatically improve a railroad's awareness and understanding of the condition of their track assets, enable predictive analytics to optimize preventive and proactive maintenance strategies, and detect flaws, such as internal rail defects, or trends in conditions over time, that can be missed by traditional visual inspections. ATI is a way to improve safety and the efficiency of the rail network. Congress should encourage the development and deployment of ATI technologies as important tools that can enhance and leverage the work of railroad maintenance-of-way teams.

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[3] Estimating the Rail-to-Truck Traffic Diversions Attributable to Increased Truck Size and Weight, Mark L. Burton Appalachian Transportation Institute, Marshall University, June 2020, http://www.cabt.org/wp-content/uploads/2020/07/DIVERSION-STUDY-FINAL.pdf

6. **Support railroad workers by providing steady federal benefits.**

The recently introduced bipartisan, bicameral Railroad Employee Equity and Fairness (REEF) Act would remove sequestration constraints on the railroad unemployment insurance program for railroad employees and ensure that they get the benefits they are entitled to.

While a temporary version of the REEF Act was passed in December 2020, that measure actually expired yesterday (May 10, 2023). Without the REEF Act, sequestration will likely result in a 5.7% reduction in railroad unemployment and sickness benefits through Fiscal Year 2030.

Being able to attract and retain talent is critical to our industry; and robust unemployment and sickness benefits are critical in that effort. While regular unemployment compensation for other industries is exempt from sequestration, the Railroad Unemployment Insurance Act (RUIA) is not. This means that the funds railroaders and employers pay into the RUIA for unemployment and sickness benefits are used to offset federal spending instead of going back to the hard-working individuals who pay into it. REEF would remedy this situation.

7. **Allow the rail industry to hire back retirees more easily to help us quickly staff to appropriate levels.**

Last year, Representative Rick Crawford (R-AR) introduced the Retirees to Rail Act, H.R.8608. The bill would temporarily permit retired railroad employees to render compensated services to an employer without a suspension or deduction of the retired railroad employee's retirement annuity.

Railroads sometimes need to be able to quickly add railroaders into the network while new employees are being trained. This legislation would allow railroads to rehire experienced railroad retirement recipients without the Railroad Retirement Board suspending the payment of their annuity, which the current law requires. This action would benefit the supply chain.

8. **Maintain federal primacy and pre-emption on rail regulation.**

Whether it is a rash of state-level legislation and regulation on crew size mandates and blocked crossing, or the stunning overreach of the California Air Resource Board’s recent locomotive regulation, state regulation of freight railroading threatens to undermine the efficiency of the world’s premier freight rail network. The interconnected nature of the rail network seems to be the most clear and obvious case of interstate commerce that one could imagine – we urge Congress to not let its federal role in rail be usurped by the states, which would create an unworkable and inefficient patchwork of rail regulation and lead to more future supply chain instability.

The California in-use locomotive rule for instance would ban any locomotive older than 23 years old beginning in 2030 – a completely unworkable proposal for a short line industry that regularly relies on 40- and 50-year old locomotives to keep sometimes barely marginal railroads viable.

9. **Support permitting reform.**

In a concern that is far broader than just the rail industry, short lines believe that widespread permitting reform is important for the continued economic growth of the United States. It is simply too time-consuming and burdensome to get projects done. Whether the projects are new renewable energy installations, major rail terminals, or sometimes even relatively simple track upgrades, a disjointed permitting process is a major hindrance.

We support the efforts by major groups like the U.S. Chamber of Commerce and the National Association of Manufacturers to improve the nation's permitting laws and procedures.

10. **Support advancing new regulations only if they are laser-focused on safety problems that warrant further action**.

ASLRRA supports efforts to address recognized safety hazards. However, the February derailment incident in East Palestine, Ohio has brought forward many legislative proposals that have no relationship to the derailment, no relevance to safety, and are unrealistic for short lines to implement. One such example is the call for requiring railroads to hire additional personnel when no hazard has been identified that would be mitigated through the hiring of those personnel. Support for mandating crew size for the first time in the 195-year history of railroading is untethered to any actual safety data that show how expanded locomotive crewing requirements improve safety, and it is out of step with domestic short line, passenger rail and commuter rail, and international freight rail, experience.

As discussed, short line railroads are critical to supply chain fluidity, to local and regional economic growth, to businesses requiring access to markets at a competitive cost, and to reducing the environmental footprint of industry. Policymakers should be mindful of these far-reaching beneficial impacts as they consider new legislation that would compel additional regulations that may cause unintended and negative impacts on short lines' ability to be part of the supply chain solution.

Legislative and regulatory responses to an accident or incident should be responsive to the event, relevant to safety, and provide reasonable and realistic requirements for small businesses to implement. Legislators should take care to consider that all the facts are in hand, including the results of National Transportation Safety Board (NTSB) investigations.

If proposals that require unnecessary equipment, personnel, and operating practices were to be enacted, they could lead to greater hazards on the rail network as finite resources would be diverted from where they are needed (typically track) to areas where they aren't. We strongly caution against any measures that are unrelated to the recent derailment, redundant with regulatory action already underway, unresponsive to the preliminary NTSB report, and premature before the NTSB investigation concludes.

We appreciate the leadership of many on this committee who -- like us -- would like to see the NTSB continue its important work and fact-finding before new rules are proposed.

The railroading industry is already one of the nation's most highly regulated industries, and collectively, safety is our number one priority. Safety is good for business, it's good for the companies we serve and the localities we operate in, and it's good for our railroad families.

11. **Support the Short Line Safety Institute (SLSI).**

The Short Line Safety Institute (SLSI) is a critical resource for enhancing the safety culture of short line railroads. ASLRRA urges Congress to continue to support the FRA's efforts to provide resources for the

SLSI to continue to improve safety culture and training for short line railroads, including efforts to improve the safe transportation of hazardous materials. New funds will also allow for enhanced hands-on field training through obtaining and maintaining two modern safety trains, which would bolster training for emergency responders in the event of a release of hazardous materials.

Conclusion

There are many areas where Congress can act to ensure that we continue to offer an integrated supply chain that is the envy of the world.

ASLRRA's short line members are the critical connection between shippers in small towns and rural areas across the country and the Class I railroads. Our unique and varied operating environments enable us to provide high-touch, personalized service in a safe and dependable way. Congress can help us, and the small communities we serve across rural and small-town America, grow and flourish, or stagnate and fail.

We urge Congress to wield their pen with precision in order to avoid unintended consequences to the supply chain.

We appreciate the committee's close attention to the items we have noted in our statement, and we welcome future opportunities to work together to craft good public policy.