



**American Short Line and  
Regional Railroad Association**

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**STATEMENT FOR THE RECORD**

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(ASLRRRA)**

**Hearing on “Improving Rail Safety in Response to the East Palestine Derailment”**

**U.S. Senate Committee on Commerce, Science and Transportation**

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**Introduction**

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

**The short line freight rail industry**

**We are America’s first and last mile freight rail service.** Short line railroads are neither household names nor mentioned frequently in major media outlets, but they are critical movers in the nation’s economy, and they have an outsized impact on the communities they serve. These small business entities in total operate nearly 47,500 route miles, or about a third of the total freight rail network system. Short line railroads can be found in 48 states; some are just a few miles long, while some run for hundreds of miles.



Short line railroads handle one in five rail cars moving annually, mostly at origin or destination, providing service to over 10,000 customers everywhere from rural America to dense urban centers. These railroads are a critical link in the country’s supply chain. Our members serve and support nearly every industry, and they are particularly vital for the energy, agriculture, minerals, chemical, and manufacturing sectors. Short lines are also well-known for their ability to provide custom, tailored, friendly white-glove service to a variety of shippers. Short lines make the extra effort to ensure that rail service for any shipment size is an efficient, reasonably priced option for shippers along their route.

**We are small businesses with a big impact.** ASLRRRA’s freight railroad members are tied to 478,000 jobs nationwide, \$26.1 billion in labor income and \$56.2 billion in economic value-add – providing a service that 10,000 businesses nationwide rely upon to get goods and products to market daily.<sup>1</sup> Short lines are nearly all small, entrepreneurial businesses, with most employing fewer than 30 people, running an average of 79 total route miles, and earning an average of \$7.7 million or less in revenue per year. At the local level, the availability of rail service provided by short lines is sometimes 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 integral to the fabric of their local communities. When they’re not moving goods and freight, short line personnel are at the local grocery store, at the PTA meeting, on the ballfield, and in their houses 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.

<sup>1</sup> The Section 45G Tax Credit and the Economic Contribution of the Short Line Railroad Industry, prepared by PWC for ASLRRRA (2018).

**We have an impressive safety story to tell.** According to Federal Railroad Administration (FRA) data, train accident and hazardous material accident rates are down 42 percent and 71 percent, respectively, since 2000. One indication of short lines' performance is ASLRRA's annual Jake Safety Award program honoring railroads that have had better than industry-average injury frequency rates for 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 – that was 344 short lines in 2021. In addition to our awards program, ASLRRA provides an exhaustive offering of programs and training for short line railroad members.

**And our environmental record 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.). Moving freight by rail reduces highway congestion and lowers idling emissions and fossil fuel consumption by 75 percent versus trucks. Short lines are committed to doing their part, seeking ways to reduce their environmental impact with the implementation of technology and operating practices that reduce emissions. By contrast, regulatory proposals that overshoot the mark would shift freight from rail to truck and harm the environment.

### **What Rail Safety Discussions Must Recognize in the Wake of the East Palestine Incident**

Since the February 3, 2023 derailment of a Norfolk Southern train in East Palestine, Ohio, a vigorous national discussion has begun about railway safety. ASLRRA and its members are eager to participate in this dialogue. Many policy ideas have been suggested, and small business short line freight railroads do not oppose proposals that make what is already an extraordinarily safe mode of freight transportation even safer in a realistically implementable manner.

Against this national conversation, however, there have been discussions of Precision Scheduled Railroading (PSR), accusations that railroads put "profits over people," assertions about reductions in the workforce, paid sick leave for employees, blocked crossings and long trains. While the relevance of those issues to rail safety is questionable, it is unquestionable that those discussions have essentially nothing to do with short lines – they concern business decisions and practices that have no relevance to short line railroads' economic or operating model and culture. Accordingly, as rail safety is discussed in Congress and amongst other policy makers, it is important to remember the following with relation to short lines:

**Hazmat safety incidents are incredibly rare on short line railroads.** Efforts to address concerns over the movement of hazardous materials on freight rail miss the mark if they include short line railroads without taking into account short lines' unique operations. Short lines, as one could expect, move relatively short lengths: the average length of haul for Class II and III railroads (together) is 38.5 miles – not hundreds or thousands of miles. Along these routes, short lines typically operate trains at speeds slow enough that in the event of an already rare derailment, a tank car is extraordinarily unlikely to be punctured and cause the release of hazardous materials.

- According to FRA data, from 2019 to 2022, the freight rail industry experienced 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 were in the consist of derailed trains and experienced a release, only four cars were on a short line.

- From 2019 to 2022, short line railroads have run 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.

We are committed to getting these numbers – derailments and derailments with releases of hazardous materials – to zero and to keep it there, but this overall safety context is important to understand before enacting potentially counterproductive regulations.

**Short lines are small businesses with limited resources.** Short line railroads are small enterprises, and efforts to regulate problems in the rail space can impose outsized new burdens and demands on these railroads. It is crucial that any new safety requirements be directly relevant to their operations and realistic for a small business to implement. Policymakers should be precise in crafting measures so as to avoid instituting unnecessary, disproportionately burdensome demands on small business enterprises. 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 heed the wisdom of these measures in crafting updates to the current regulatory framework. Many small business railroads are not able to comply with costly “one size fits all” requirements that may make sense for other, larger entities, and Congress’ ignoring this fact could inflict extreme duress and economic harm on a critical sector of the freight rail industry – without providing any safety benefit.

**The rail industry is already highly regulated.** It is a false choice to suggest that the rail industry must now face regulations or continue to operate outside any safety regimen. The rail industry is already highly regulated and was one of the first industries to experience federal oversight nearly 150 years ago. The true choice is whether Congress will advance smart, sensible policies that make the network safer or impose stark new measures unsupported by science that actually introduce new risks onto the freight network. The current regulatory framework consists of the following:

Federal Railroad Administration Regulations at 49 C.F.R.

- Part 213 Track Safety Standards
- Part 214 Railroad Workplace Safety
- Part 215 Railroad Freight Car Safety Standards
- Part 216 Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment
- Part 217 Railroad Operating Rules
- Part 218 Railroad Operating Practices
- Part 219 Control of Alcohol and Drug Use
- Part 220 Railroad Communications
- Part 221 Rear End Marking Device - Passenger, Commuter and Freight Trains
- Part 222 Use of Locomotive Horns at Public Highway-Rail Grade Crossings
- Part 223 Safety Glazing Standards - Locomotives, Passenger Cars and Caboose
- Part 224 Reflectorization of Rail Freight Rolling Stock
- Part 225 Railroad Accidents/Incidents: Reports Classification, and Investigations
- Part 227 Occupational Noise Exposure
- Part 228 Passenger Train Employee Hours of Service; Recordkeeping and Reporting; Sleeping Quarters

Part 229 Railroad Locomotive Safety Standards  
Part 231 Railroad Safety Appliance Standards  
Part 232 Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices  
Part 233 Signal Systems Reporting Requirements  
Part 234 Grade Crossing Safety  
Part 235 Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements of Part 236  
Part 236 Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances  
Part 237 Bridge Safety Standards  
Part 240 Qualification and Certification of Locomotive Engineers  
Part 241 United States Locational Requirement for Dispatching of United States Rail Operations  
Part 242 Qualification and Certification of Conductors  
Part 243 Training, Qualification, and Oversight for Safety-Related Railroad Employees

Pipeline and Hazardous Materials Safety Administration Regulations at 49 C.F.R.

Part 105 Hazardous Materials Program Definitions and General Procedures  
Part 106 Rulemaking Procedures  
Part 107 Hazardous Materials Program Procedures  
Part 109 Department of Transportation Hazardous Material Procedural Regulations  
Part 110 Hazardous Materials Public Sector Training and Planning Grants  
Part 130 Oil Spill Prevention and Response Plans  
Part 171 General Information, Regulations, and Definitions  
Part 172 Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans  
Part 173 Shippers - General Requirements for Shipments and Packagings  
Part 174 Carriage by Rail  
Part 178 Specifications for Packagings  
Part 179 Specifications for Tank Cars  
Part 180 Continuing Qualification and Maintenance of Packagings

Transportation Security Administration Regulations at 49 C.F.R.

Part 1520 Protection of Sensitive Security Information  
Part 1570 General Rules  
Part 1572 Credentialing and Security Threat Assessments  
Part 1580 Freight Rail Transportation Security

**The Federal Railroad Administration, the Pipelines and Hazardous Materials Safety Administration and the Transportation Security Administration are also already taking action on a host of new regulatory measures.** The chief rail safety oversight agency, the FRA, is in the midst of a broad campaign of regulatory activity. These efforts include the following:

- Emergency Escape Breathing Apparatus (Supplementary NPRM announced by FRA on March 8, 2023);
- Amendments to Locomotive and Passenger Equipment Safety Standards (NPRM scheduled for 2023);
- Railroad Noise Emission Compliance (NPRM scheduled for August 2023);
- Train Crew Staffing (NPRM issued July 2022; Final rule scheduled for 2024);
- Dispatcher Certification (NPRM scheduled for 2023);
- Signal Employee Certification (NPRM scheduled for 2023);
- Miscellaneous Amendments to Federal Glazing Standards (NPRM published April 2022);
- Amendments to the Freight Car Safety and Reflectorization Standards (NPRM published July 2022); and
- Training, Qualification, and Oversight for Safety-Related Railroad Employees (NPRM published October 2022).

FRA is also engaged in extensive activity through its Rail Safety Advisory Committee (RSAC) to explore future regulations, which includes efforts on track safety standards, roadway worker protection, use of electronic devices, Confidential Close Call Reporting (C3RS), practices to maximize alertness and reduce fatigue, critical incident stress plans/Part 272 amendments, and wayside detectors (which is expected to be announced at an upcoming March 27, 2023 RSAC meeting).

FRA's sister agency in the hazardous materials space, the Pipelines and Hazardous Materials Safety Administration (PHMSA), is also busy and engaged in the following rulemakings:

- FAST Act Requirements for Real-Time Train Consist Information by Rail (ANPRM issued January 2017, NPRM scheduled for 2023);
- Hazardous Materials: Advancing Safety of Highway, Rail, and Vessel Transportation (NPRM scheduled for 2023); and
- Hazardous Materials: Improving the Safety of Transporting Liquefied Natural Gas (NPRM scheduled for 2023).

Meanwhile, the Transportation Security Administration, which has jurisdiction over railroads on security matters, is currently working on rulemakings covering short lines related to the Vetting of Certain Surface Transportation Employees (NPRM scheduled for 2023) and Cyber Risk Management (ANPRM issued in 2022 and NPRM scheduled for 2023).

From within this list of existing regulatory activity, several items have nonetheless been re-proposed as legislative initiatives in recent weeks, including proposals on mandatory crew size and C3RS. We urge policymakers to avoid adding a layer of redundancy with proposals that are already underway and are being reviewed and considered through the administrative process.

**New policies should advance only if they focus on safety problems that truly warrant further action.**

ASLRRRA supports efforts to address recognized safety hazards presented by the incident in East Palestine. But many ideas that have been brought forward or recycled in recent weeks have no relationship to the February 3 derailment, like 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 or solid scientific statistics that show how hiring requirements improve safety, and it is out of

step with domestic short line experience, passenger and commuter rail experience, and international experience.

**Finally, new policies should do no harm.** ASLRRA urges policymakers to avoid exacerbating problems in the wake of East Palestine. Hiring mandates that force small business railroads to put scant funds toward adding unnecessary personnel means they must divert resources from actual safety upgrades, such as track upgrades. Exorbitant fines detached from reasonable deterrence needs can put small business railroads into bankruptcy. Many ill-advised proposals like these are now on the table, and their implementation will mean more heavy freight and hazardous materials will end up moving on the highway, which is more detrimental to our environment, more dangerous to motorists, more likely to gum up the supply chain, and undeniably proven to inflict more damage America’s already worn-out roads.

### **Sensible Policy Proposals Responsive to Actual Safety Concerns**

**Ensure the NTSB’s findings inform any policymaking.** As part of this hearing, this panel is taking testimony from the National Transportation Safety Board (NTSB), which is uniquely tasked with leading investigative activities and will present in the months to come what we expect will be a thorough assessment of its findings, likely including what could have caused and prevented the February 3 derailment. Advancing major policies without having a robust discussion on that report would be premature.

**Include Class 2 flammable gases within the definition of High-Hazard Flammable Trains (HHFTs).** It would be reasonable to include within the definition of HHFTs certain trains carrying a combination of loaded Class 3 flammable liquids and Class 2 flammable gases. It would be problematic, however, to include within the definition of HHFTs any train carrying even a single car of any type of hazardous material – this would encompass a huge percentage of all trains moving, stretch the definition of “high hazard” beyond reason, and set the stage for overly burdensome restrictions for no safety benefit.

**Require hot box detectors for certain trains.** It may be reasonable to create a requirement for hot box detectors or other wayside detectors or on-board sensors within the current HHFT regulatory framework (e.g., requiring detectors on routes routinely hosting trains that are also traveling in excess of 30 mph) or on certain key routes carrying substantial amounts of hazardous materials over certain speeds. It would be problematic, however, to require new wayside fault detectors like hotbox detectors on any route carrying any train carrying any hazardous materials at even low speeds, as hundreds of short line railroads would be required to install the expensive devices but would achieve no new safety benefit and mitigate no meaningful risk. This would be existentially threatening for some short lines, for no safety benefit.

**Phase out older tank cars.** It may be reasonable and responsive to East Palestine to expedite the FAST Act-mandated phasing out of certain older tank cars.

**Support the Confidential Close Call Reporting System (C3RS).** It may be reasonable to require some sort of rulemaking on the C3RS framework, and indeed, as noted above, there is already an RSAC effort underway on the topic. A C3RS mandate is unnecessary, however, as all of the largest railroads are now already in the program. The program should remain voluntary. A rulemaking to develop the program could still be beneficial, for example, so that proper parameters could be instituted to preclude employees from using the program to evade proper discipline.

**Avoid punitive fine increases for short lines.** While it may be politically attractive to update maximum fine levels, we can state that as far as short lines are concerned, they have established a long record of being good corporate citizens who are more than willing to cooperate with regulators and focus on safety and community relations – there is no call to threaten them with dramatically increased fines. Updates to fines should only reflect inflation and must account for the significantly negative effect a large fine could have on a small railroad.

**Increase funding for research and development at FRA and PHMSA and increase funding for certain inspection activities at FRA.** It may be reasonable to increase resources for FRA for certain safety-advancing activities. For short lines, the most significant source of derailments is simply problematic track infrastructure, so inspection activities such as track geometry cars are at least responsive to a realistic safety risk.

**Direct USDOT and FRA to target CRISI funds for freight rail safety.** The Consolidated Rail Infrastructure and Safety Improvements Program (CRISI) has been instrumental in repairing, updating and rebuilding aging and outdated rail facilities – especially for short line freight railroads. The Infrastructure Investment and Jobs Act (IIJA) significantly increased the funds available for CRISI. As Congress begins to consider priorities for Fiscal Year 2024 spending measures, Congress should fully fund this program with annual appropriations at the full authorized level of \$1,000,000,000 per year, and resources should be targeted toward freight rail safety needs – not toward passenger rail expansion efforts, which are largely unrelated to freight rail safety and are better addressed through other well-funded programs in IIJA. Again, for short lines, track, roadbed and structures challenges (rail, joint bars, track geometry, switches, roadbed, etc.) are the most common cause of derailments, so investments to help short lines rehabilitate that track are the most effective safety actions available.

**Provide resources for short lines to join the AskRail program.** AskRail is a safety app made available by the Class I railroads through the Association of American Railroad's technology subsidiary, Railinc. The undertaking provides real-time information to first responders regarding the contents of railcars. Some short line railroads lack the resources and technical systems to join the program but would welcome resources to participate, recognizing, of course, that short line railroads present little hazardous material safety threat as is.

**Provide resources for efforts like RailPulse.** RailPulse is an undertaking designed primarily to give freight railroads and rail shippers visibility into the real-time location of railcars, which would help improve supply chain visibility and performance. The RailPulse roadmap also involves installing a variety of other asset health sensors onto railcars beyond GPS, such as accelerometers and door status monitoring. This program could be expanded to include thermal, acoustic, visual and vibration sensors to monitor car components, such as for integrity of wheels and axles, possibly providing a dramatically improved method of constant monitoring of the safety of railcars. A policy statement and support for a significant funding infusion could provide key momentum to expand RailPulse.

**Provide increased resources for the Short Line Safety Institute (SLSI).** FRA has been funding this effort annually at \$2,500,000 per year for several years now through its research and development budget. Congress recommends to FRA that it do so through appropriations report language each year. The core service SLSI delivers is safety culture assessments. SLSI has now completed 121 safety culture assessments and touched over 12,000 railroaders. SLSI conducts leadership development training as well. SLSI has also successfully applied for PHMSA grants to expand its offerings to include Hazardous



Materials Instructor Training (HMIT) and Assistance to Local Emergency Response Training (ALERT). SLSI is also the entity that facilitates short line participation in C3RS. With increased funding, SLSI could expand its offerings and capabilities in various ways:

- **New safety trains.** SLSI has rented an older “safety train” to conduct some hands-on field training. The train consists of three or four rail cars, but SLSI does not own the cars. With additional resources, SLSI could acquire its own trains and expand its service to railroaders and emergency responders.
- **New mobile training facilities.** SLSI is leasing a mobile trailer specifically designed for hazardous materials training – both classroom and hands-on. Additional funding would allow for more facilities to be available to reach more railroads and first responders across the country.
- **Support C3RS.** With more resources, SLSI could provide more analysis and reporting for those railroads participating in the C3RS effort, especially as that number increases.
- **Launch a community standard of care training program.** SLSI could begin what would be considered a “community standard of care” training program that would instruct short lines on how to interact and care for a community should a safety incident occur.

#### Conclusion

ASLRRRA appreciates the committee’s close attention to the items we have noted in our statement, and we welcome future opportunities to work together on these matters.