

BEFORE THE
FEDERAL RAILROAD ADMINISTRATION

DOCKET NO. FRA-2022-0020:
CERTIFICATION OF SIGNAL EMPLOYEES

PETITION FOR EXTENSION OF PUBLIC COMMENT PERIOD
FROM
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

The American Short Line and Regional Railroad Association (ASLRRA), on behalf of itself and its member railroads, petitions the Federal Railroad Administration (FRA) for a 60-day extension of the time to submit comments in response to the Notice of Proposed Rulemaking (NPRM) in Docket No. FRA-2022-0019: *Certification of Signal Employees*.¹ As written this proposed rule would have a significant impact on a substantial number of small businesses, so an extension to the comment period will provide time for ASLRRA to thoroughly obtain and review feedback from its member railroads in order to respond to the NPRM's assumptions and provide FRA with data to perform a meaningful regulatory flexibility analysis as required by the Small Business Regulatory Fairness Act.

ASLRRA is a small non-profit trade association representing approximately 500 short line and regional railroad (short line) members and 500 railroad supply, contractor, and service company members in legislative and regulatory matters. Short lines operate about 50,000 miles of track, or approximately 30% of the national freight network, employing approximately 18,000 people, and connect manufacturers, businesses and farmers in rural communities and small towns

¹ 88 Fed. Reg. 35,632 (May 31, 2023).

to larger markets, urban centers, and ports. The majority of short line railroads are considered small businesses.²

FRA proposes to require railroads to develop programs for the certification of signal employees and to submit those written certification programs to FRA for approval prior to implementation. Under this proposed rule, railroads would be required to verify and document that each signal employee has the requisite knowledge, skills, safety record, and abilities to safely perform all of the safety-related signal employee duties mandated by Federal laws and regulations, prior to certification. In addition, railroads would be required to have formal processes for revoking certification (either temporarily or permanently) for signal employees who violate specified minimum requirements.³ This NPRM proposes a significant change to existing railroad operations, as there are currently no FRA regulations mandating that railroads develop and execute a certification program for signal employees.

ASLRRA participated in the Railroad Safety Advisory Committee (RSAC) Signal Employee Working Group and its deliberation regarding Task No. 19-03, “Certification of Railroad Signal Employees.”⁴ This group discussed some of the safety-critical tasks performed by signal employees, and debated whether certification of signal employees would be beneficial to railroad safety. However, upon request from the American Train Dispatchers Association, BRS, and the International Brotherhood of Electrical Workers, FRA withdrew the task from RSAC and the working group became inactive.⁵ ASLRRA engaged in subsequent outreach on this topic with FRA, sharing an initial concern that a regulation requiring certification of dispatchers would result in a large paperwork burden on small businesses. As the development

² See 13 C.F.R. § 121.201 and North American Industry Classification System code 482112, “Short Line Railroad.”

³ 88 Fed. Reg. at 35,632.

⁴ Id. at 35,636.

⁵ Id.

of the regulatory text was removed from the RSAC process, ASLRRA has not had the benefit of extensive review of the NPRM's specific provisions and their potential impact on short line railroads. ASLRRA is currently consulting with its approximately 500 short line railroad members to see how their operations would be impacted by the proposed rule.

Further, FRA issued this NPRM the exact same day as an NPRM covering the certification train dispatchers.⁶ The dispatcher certification NPRM also has the same 60-day comment period as that provided for this NPRM. Like this proposed rule, the dispatcher certification NPRM also proposes a significant change to existing railroad operations, as there are currently no FRA regulations mandating that railroads develop and execute a certification program for train dispatchers. As a small business reviewing two major rulemakings from FRA, in addition to ASLRRA's active participation in the twelve tasks currently before RSAC, the association is very concerned that FRA has not provided sufficient time for our meaningful engagement to provide the perspective and feedback from small business railroads.

ASLRRA urges FRA to provide an additional 60 days for public comment.

Respectfully submitted,



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⁶ 88 Fed. Reg. 35,632.