



August 29, 2022

VIA ELECTRONIC SUBMISSION

The Honorable Amit Bose, Administrator
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Request for Extension of Comment Period — Proposed Train Crew Size Safety Requirements [Docket No. FRA–2021–0032, Notice No. 1] (RIN 2130–AC88)

Dear Administrator Bose:

On July 28, 2022, the Federal Railroad Administration (FRA) published a proposed rule in the Federal Register on “Train Crew Size Safety Requirements.”¹ The comment period for the proposed rule is open for sixty days and is scheduled to close on September 26, 2022. Based on input from small business representatives in the short line and regional railroad sector, the Office of Advocacy (Advocacy) of the U.S. Small Business Administration (SBA) respectfully requests that FRA extend the public comment period by at least sixty days. The extension will give small businesses more time to comment and allow small business representatives time to survey their membership to provide more meaningful comments on the proposed rule.

Advocacy Background

Advocacy was established pursuant to Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within SBA, so the views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration. The Regulatory Flexibility Act (RFA),² as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),³ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, federal agencies are required by the RFA to assess the impact of the proposed rule on small business and to consider less burdensome alternatives.

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.⁴ The agency must include a response to these written

¹ 87 Fed. Reg. 45564 (July 28, 2022)

² 5 U.S.C. § 601 et seq.

³ Pub. L. 104-121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C. § 601 et seq.).

⁴ Small Business Jobs Act of 2010 (PL 111-240) § 1601.

comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.⁵

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."⁶

An Extension of the Comment Period Would Allow Small Business Representatives to Provide More Meaningful Comments on the Proposed Rule

On July 28, 2022, the Federal Railroad Administration (FRA) proposed new regulations to establish safe minimum train crews size requirements for various types of rail operations.

The FRA proposal includes:

- A minimum requirement of two crewmembers for all railroad operations, with exceptions for operations that do not pose significant safety risks to railroad employees, the public, or the environment.
- Minimum requirements for the location of crewmembers on moving trains to promote safe and effective teamwork.
- A special approval procedure to allow railroads to petition FRA to continue legacy operations with one-person train crews and allow any railroad to petition FRA for approval to initiate a new train operation with fewer than two crewmembers.

In response to the proposed rule's publication, the American Short Line and Regional Railroad Association (ASLRRA) sought Advocacy's assistance in extending the comment period so it could survey its small business membership about their operations and how the proposed rule would impact them. ASLRRA is a small non-profit trade association representing the interests of approximately 500 short line and regional railroad members and 500 railroad supply, contractor, and service company members in legislative and regulatory matters.⁷ FRA has determined under the RFA that the proposed rule would have a significant economic impact on a substantial number of small entities. As a result, Advocacy supports ASLRRA's request. Advocacy does not believe a sixty-day extension of the comment period would impair FRA's rulemaking effort as this rulemaking has been underway for at least the past several years.

Conclusion

Thank you for the opportunity to comment on the proposed rule. Advocacy respectfully requests that the FRA extend the current comment period by at least sixty days. Please feel free to contact

⁵ Id.

⁶ Id.

⁷ See, [About ASLRRA - ASLRRA](#)

Bruce Lundegren at (202) 205-6144 or bruce.lundegren@sba.gov if you have any questions or require additional information about this request.

Sincerely,

//signed//

Major L. Clark, III
Deputy Chief Counsel
Office of Advocacy
U.S. Small Business Administration

//signed//

Bruce E. Lundegren
Assistant Chief Counsel
Office of Advocacy
U.S. Small Business Administration

Copy to: Dominic Mancini, Deputy and Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget