



## American Short Line and Regional Railroad Association

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DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY

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DOCKET NO. DOT-OST-2021-0140  
USDOT STRATEGIC PLAN FOR FY 2022-26

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### COMMENTS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

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#### **Introduction**

The American Short Line and Regional Railroad Association (“ASLRRA”) on behalf of the short line railroad industry, comprised of 603 small business railroads, submits the following comments in response to USDOT’s December 3, 2021, Notice of Request for Public Comment (“RFC”), soliciting input on the draft DOT strategic framework.<sup>1</sup> ASLRRA is supportive of President Biden’s priorities, which are highlighted in this framework, and appreciates this opportunity to provide feedback. Listed below are ASLRRA’s responses to the questions found in the RFC.

ASLRRA notes that its member railroads are separate and distinct from Class I railroads and should be considered accordingly. Short line railroads are classified as Class II or Class III railroads by the Surface Transportation Board<sup>2</sup>, and are also small businesses in accordance with the North American Industry Classification Standards.<sup>3</sup>

While short line railroads may carry the same types of freight as Class I railroads, the scope of their operations are very different. Most short line railroads meet the definition of small businesses. On average, short line railroads employ fewer than 30 people, run an average of only 79 miles, and generate \$7.7 million or less in revenue.<sup>4</sup> Most short line railroads must invest a minimum of 25% of their annual revenue back into their infrastructure, which is a percentage far higher than almost any other industry in the country.<sup>5</sup> Further, although short line railroads participate in approximately 20% of all carload movements and have roughly 12% of the

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<sup>1</sup> ASLRRA is a non-profit trade association representing the interests of approximately 600 short line and regional railroad members and approximately 500 railroad supply company members in legislative and regulatory matters. Short lines operate 50,000 miles of track in 49 states, or 29% of the route miles in the U.S., touching in origination or termination one out of every five cars moving on the national railroad system, serving customers who otherwise would be cut off from the national railroad network.

<sup>2</sup> 49 C.F.R. 1201, General Instructions § 1-1(a).

<sup>3</sup> See [census.gov/naics](https://www.census.gov/naics).

<sup>4</sup> Short Line and Regional Railroad Facts and Figures. American Short Line and Regional Railroad Association, 2017; reprint Dec. 2019. Page 1.

<sup>5</sup> Id. at 3.

industry's employees, they only account for approximately six percent of the revenue generated on the national freight rail system.

In a similar fashion, it is important to note that while ownership structures vary considerably across the 603 Class II and III freight railroads in the U.S., their economics are quite consistent. As the first and last mile of the national freight rail network, they must manage providing superior local services to their customers while adapting to the changes at their connecting Class I carriers. This, along with a constant need to reinvest heavily into their often older assets, places unique financial demands on all smaller railroads.

We urge the USDOT to acknowledge the unique identity of our industry when considering issues that will impact rail transportation. Excessive implementation costs, or labor mandates that impede innovation and efficiency with no safety benefit, threaten the viability of short line service. Rather than aiding in resiliency, such unnecessary intervention hampers operations, especially short lines' ability to bring efficiency to the country's supply chain.

### **RFC Questions and Comments**

#### ***1. What strategies or priorities should the USDOT adopt to achieve the Department's strategic goals and objectives?***

ASLRRA is pleased to see that safety is at the top of the USDOT's list in the Strategic Plan. The short line industry has worked with the Federal Railroad Administration's Research Development and Technology (FRA RD&T) team on numerous projects and initiatives. We urge the Secretary's office to support FRA RD&T efforts, as they have historically led to advancements in safety. For example, the Short Line Safety Institute, a non-profit corporation that is the educational, training, and research source for short line and regional railroads concerning safety culture, receives substantial grant funding through FRA RD&T. We are looking forward to the short line industry expanding our relationship with the FRA RD&T team as our industry seeks ways to become more involved in environmental and social justice efforts. As small businesses, our railroad members can offer unique access to captive locomotive fleets and small facilities for research.

#### **Specific FRA Regulatory Proceedings**

In order to meet the strategic goals in an equitable fashion, we urge USDOT and FRA to issue rules that permit greater operational flexibility for railroads. This flexibility could help in further reducing greenhouse gas emissions while maintaining or improving safety -- such as electronic airbrake slip ("eABS") systems and automatic track inspection ("AGTMS"). USDOT should encourage FRA's work in innovative ways to leverage technology to improve brake system and track inspection safety.

First, eABS system efforts should continue. The FRA issued a Notice of Proposed Rule Making ("NPRM") on January 15, 2021 to amend its brake safety system standards to permit rail operations using an eABS system to safely move rail cars further between air brake inspections and to permit railroads to add or remove multiple cars from a train without conducting additional brake tests. The current redundant testing requirements hurt railroads' ability to provide the efficient transportation options needed in today's freight marketplace. The flexibilities proposed by the NPRM would allow railroads to better serve their customers. Additionally, with increased mileage between intermediate air brake tests and no limitations on the ability to pick up and set off cars, eABS system have the potential to increase the competitiveness of rail transportation. ASLRRA encourages FRA to finalize this rule, which

promises to greatly increase network fluidity and customer service while reducing fuel consumption and locomotive emissions with no negative impact on safety.

Second, we urge FRA to avoid actions that stifle advancements in track safety. FRA has previously granted waivers to many of the Class I railroads to test the efficacy of ATGMS in lieu of the 50-year-old standard of visual track inspections. ATGMS provides earlier identification of anomalies through more frequent inspections, more efficient inspections at much lower overall cost, and planned maintenance instead of reactive maintenance – all resulting in safer, better quality track. One of the features of the waiver that enhances network fluidity is a reduction in the number of hi-rail visual inspections, freeing track time for movement of trains. Railroads can shift the work of their track inspectors to other areas such as special trackwork and curves to maximize their effectiveness and improve the overall quality and safety of the track with these waivers.

Safer track reduces the risk of track-caused derailments, a leading cause of accidents that can disrupt and delay the supply chain. However, FRA has recently denied extending the waivers for testing ATGMS in lieu of manual inspections. ASLRRA urges FRA to grant extension requests for the ATGMS waivers and initiate a rulemaking allowing railroads to leverage technological advancements to improve rail safety and support supply chain fluidity.

Finally, in seeking to achieve the strategic plan goals, ASLRRA suggests a position of “do no harm” by focusing on grant programs and research. Controversial initiatives like a crew size mandate would shift focus away from programs that will make a positive impact on safety goals.

## ***2. How should USDOT measure progress toward those priorities?***

USDOT should measure progress towards these priorities by focusing on data-driven decision making. Instead of focusing on priorities where there is no data to support a costly and limiting rulemaking such as crew size, supporting a robust data analytics program would be more conducive to meeting USDOT’s strategic goals.

## ***3. What emerging challenges or opportunities in transportation warrant additional USDOT activities or investment.***

Railroads are experiencing an increasing need for assistance in rebuilding their privately held and maintained infrastructure to maintain resiliency and ability to serve customers throughout the supply chain. As climate change continues to spark extreme weather events, having resources available to railroads is critical to maintaining supply chain fluidity. Floods causing track, bridge, and other infrastructure damage can result in rerouting or halting shipments. Relief funds set aside and made readily available, as they are to other modes of transportation, would give short line freight railroads the ability and confidence to repair their infrastructure quickly and return to serving critical manufacturing, industrial, energy, and agricultural industries – particularly in small and rural communities across the country. ASLRRA’s members are interested in creating dedicated funding for extreme weather events and other natural disasters and have brought this idea to Congress. ASLRRA urges USDOT to support our efforts, as this funding would increase resilience in the supply chain.

The growing interest in autonomous vehicles, especially commercial motor vehicles (“CMV”), is an emerging challenge for our industry, as it places railroads at a competitive disadvantage to other means of moving freight. Compounding and exacerbating this problem, USDOT is putting resources into replacing CMV drivers with autonomous vehicles, while at the same time,

working on efforts like a rule that would require a minimum of two people working on a locomotive. These competing priorities create an environment of modal favoritism and inefficiency. The ASLRRA suggests steering supply chain policy efforts with equity in mind, instead of tipping the scales of competition towards one particular mode through government funding and/or regulatory actions.

ASLRRA urges the USDOT to avoid engaging in dictating labor practices that have historically and successfully have been managed via labor negotiations. ASLRRA asks that the FRA discontinue its efforts towards a new NPRM on Crew Size (put in whatever the title is), as it is not supported by data or safety improvements, and is in direct opposition to actions taken in other transportation sectors related to labor. FRA has no data to support a minimum crew size mandate, especially as the agency has not implemented NTSB's recommendations R-16-33 and R-16-34 to capture crewmember data and use the data to evaluate the adequacy of current crew size regulations.<sup>6</sup>

#### ***4. How can USDOT best coordinate its activities with Federal, State, local, tribal, labor, private sector, academic, non-profit, international and other stakeholders?***

ASLRRA encourages the USDOT to engage stakeholders as it implements the priorities within the strategic plan. Continuing participation in advisory groups is crucial to getting buy-in from industry, who will be responsible for implementing rules and regulations from the USDOT. ASLRRA members are interested in meeting with USDOT and FRA staff to discuss priorities and solutions. Roundtable discussions are a positive tool for stakeholder engagement with the agency. ASLRRA hosts regular interactive webinars and would be pleased to offer a forum for agency employees discuss priorities and projects with our railroad and supplier members. ASLRRA staff is also active in the FRA Railroad Safety Advisory Committee (RSAC) and was encouraged by the changes to the latest charter. The RSAC is an important part of stakeholder engagement across the industry. It is one of the only places where rail and labor can come together in a structured environment and work on common goals.

#### ***5. How can USDOT best utilize additional programs and authorities in the Infrastructure Investment and Jobs Act to accomplish the goals laid out in the strategic plan?***

We encourage USDOT and FRA to focus on policy levers that will encourage the movement of freight by rail as the safest and biggest environmental “bang for the buck” available in surface transportation. On the immediate horizon, beyond the regulations noted above, the FRA has an opportunity to award the next round of Consolidated Rail Infrastructure Safety Improvement (“CRISI”) grants with an eye towards facilitating the safe and efficient movement of freight by rail – short lines throughout the country have submitted applications for the FY21 round to this program, which is the primary federal grant program available for short line projects, and ASLRRA looks forward to seeing the results of the process. ASLRRA encourages the USDOT and FRA to support the grant programs created and continued through enactment of the IJA. Short line railroads benefit from these programs, as they have high maintenance and rebuilding needs, often in possession of outdated and abandoned rail inherited from larger railroads. The CRISI grant program allows many of our members to afford to upgrade rail to the modern network standard of 286,000-lb. rail cars, which is a very expensive and frequently unattainable upgrade for smaller railroads. Currently, 25% of the short line network is unable to support a 286,000-lb rail car, making it difficult for our members to provide service in certain corridors. These rail lines may lose some business to the trucking industry, shifting more freight movement onto our nation’s highways where motorists are put at risk of contact with toxic inhalation hazard

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<sup>6</sup> <https://data.nts.gov/carol-main-public/sr-details/R-16-033>  
<https://data.nts.gov/carol-main-public/sr-details/R-16-034>

materials (“TIH”) and other dangerous commodities. Further, this shift adds to the congestion and degradation of our aging interstate highway system.

Awarding grants to eligible short line project applications and freight-related applications through programs such as CRISI, Infrastructure for Rebuilding America (“INFRA”) and Rebuilding American Infrastructure with Sustainability and Equity (“RAISE”) is an effective way for the administration to ensure our member railroads can make necessary upgrades to move increased freight volume and address these bottlenecks.

We further note that of the \$66 billion provided to rail in the IJA, \$58 billion of that is essentially exclusively focused on intercity passenger rail, so with that in mind we suggest that the \$5 billion in guaranteed funding for CRISI be primarily focused on freight rail opportunities.

### **Specific suggestions on grant program administration:**

Grant programs can provide an important source of supplemental funds for short line and regional freight railroad infrastructure projects. Federal and state grants have assisted these railroads in upgrading their lines, to better serve the communities and customers that depend on their services to connect to the national rail network. ASLRRRA member railroads have communicated the following suggestions for the administration of FRA grants:

1. Grants should be flexible in the size of possible awards. A series of smaller awards dispersed among a group of diverse smaller railroads can have the same positive impact as a single major corridor award.
2. Matching funding requirements should be better defined. Giving preference to grant requests with “over-matching” may appear logical, but can lead to discounting otherwise important short line projects that from a financial standpoint cannot provide an over-matching of funding.
3. Imposing limits on state departments of transportation on the number of grant submissions allowed in a round of a program forces pre-application competition between smaller short line projects and major large railroad or other modal projects, often putting the smaller project at a disadvantage. Programs such as CRISI should not disadvantage any direct short line application simply because it is made by the railroad directly.
4. Short line railroads would like to see more transparency in the grant award process. Improved engagements both before and after submission of a grant application between the short line railroad and the administering organization for the grant could improve the grants projects and make the process more understandable.
5. Improve technical analysis process in reviewing grant applications. Consider applications simply providing structured inputs for technical analysis, with the review process utilizing a standard process to analyze these inputs.
6. Manage entire grant award process on a public schedule. Give more clarity to each step in the process, and provide notice of completion during the grant cycle.

7. Improve processes after award announcements. Speed up process for preparing and executing required grant agreements. Better use of standardized agreements should be pursued. Improve debriefing process for unsuccessful applications, making clearer what led to the project not receiving a grant.

## **Conclusion**

The short line freight railroad industry provides environmentally sustainable transportation and is a prime driver of solutions to the supply chain crisis. ASLRRRA encourages the Biden Administration to focus on policy levers that will encourage the movement of freight by rail as the biggest environmental “bang for the buck” available in surface transportation and allow the short line industry to continue bringing new efficiencies to our country’s supply chain.

Thank you for the opportunity to comment on this important initiative.

Sincerely,



Chuck Baker  
President  
American Short Line and Regional Railroad Association