

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY**

---

**DOCKET NO. DOT-OST-2025-0026  
REQUEST FOR INFORMATION:  
ENSURING LAWFUL REGULATION; REDUCING  
REGULATION AND CONTROLLING REGULATORY COSTS**

---

**COMMENT SUBMITTED BY  
THE ASSOCIATION OF AMERICAN RAILROADS**

---

The Association of American Railroads (AAR), on behalf of itself and its member railroads, submits the following comments in response to the Department of Transportation’s (DOT’s) April 3, 2025, Request for Information (RFI), “Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs,” seeking public input in assisting DOT with identifying existing regulations, guidance, paperwork requirements, and other regulatory obligations that should be modified or repealed because they undermine the national interest or result substantial regulatory burdens.<sup>1</sup>

**Statement of Interest**

AAR is a non-profit trade association whose membership includes freight railroads that operate 83% of the line-haul mileage, employ 95% of the workers, and account for 97% of the freight revenues of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service. AAR’s members are directly affected by regulations and guidance issued by DOT and its modal administrations (particularly the Federal Railroad Administration (FRA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA)) that are applicable to rail transportation.

---

<sup>1</sup> 90 Fed. Reg. 14593 (Apr. 3, 2025).

## Introduction

AAR appreciates the opportunity to comment on DOT's Request for Information to assist the Department in "identifying existing regulations, guidance, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to ensure that DOT administrative actions do not undermine the national interest and that DOT achieves meaningful burden reduction while continuing to meet statutory obligations and ensure the safety of the U.S. transportation system." In addition to the deregulatory items identified here, AAR has also prepared an extensive list of regulations and guidance that should be repealed, replaced, or modified. The list is contained in a separate document filed as an attachment to the AAR comment, and is intended to act as a supplement to this written comment. All regulations and guidance that AAR has identified are contrary to the Administration's policies, as reflected in Executive Order (E.O.) 14219.<sup>2</sup>

### **Rail safety regulations should be performance-based to allow for innovation that improves safety and efficiency and allows railroads to compete on a level playing field.**

While railroads are fully committed to developing, testing, and incorporating new and emerging technologies to help improve safety, efficiency, and customer service, they often run into regulatory impediments that stifle innovation. FRA and PHMSA regulations are antiquated, overly prescriptive, and incongruous with the current state of new and even reasonably mature technological solutions. Indeed, FRA's current inspection requirements are framed around arbitrary time-, event-, and distance-based visual inspections that were the industry norm when first promulgated more than 50 years ago. As a result, railroads are continuously performing unnecessary inspections that do not benefit safety. For example, 49 CFR § 236.107 of FRA's signal inspection regulations requires railroads to conduct ground testing whenever an energy bus is placed into service and every 3 months thereafter. However, railroads have installed more than 45,000 microprocessor-based systems that allow for continuous

---

<sup>2</sup> 90 Fed. Reg. 10583 (Feb. 25, 2025).

ground monitoring and other advanced designs that are not susceptible to unsafe conditions caused by grounds. As a result, railroads conduct more than 180,000 regulatory-mandated energy bus tests per year that serve no safety purposes.

This needs to change. Overly prescriptive regulations are a powerful disincentive to invest in the research and technology necessary to make further gains in stakeholder safety, bolster security efforts, and keep railroads competitive in the marketplace for time-sensitive freight. DOT's rail safety regulations should shift focus to become purpose-driven in a way that ensures a safe and efficient rail network that supports domestic prosperity. Regulation, when necessary, should be data-driven and performance-based to enable maximum safety benefits and continued safety innovation. Rail safety regulations should not lock in practices or technologies that quickly become outmoded; rather they should allow the rail industry to continuously invest in cost-effective, innovative solutions that better enhance safety and efficiency. And no regulations should be finalized unless the benefits outweigh the regulatory costs. Additionally, DOT should carefully consider modal equity when developing new—or revising existing—regulations to ensure they do not prevent the incorporation of new and emerging technologies in one mode that may already be ubiquitous in other modes of transportation.

**FRA's recent Crew Size Final Rule should be repealed.**

In April 2024, FRA took an unprecedented step in finalizing a crew size rule requiring each train to be assigned a minimum of two crewmembers, subject to certain limited exceptions.<sup>3</sup> Prior to the final rule, crew size issues had traditionally been left to the collective bargaining process. However, FRA's new crew size rule delivered on a Biden campaign promise from 2020 to regulate crew size. While FRA's final rule ostensibly established a special approval process that allows FRA to authorize one-person crews, that special approval process is illusory. The structure of the special approval process—with an impossible-to-satisfy "risk matrix" or its equivalent, and a subjective decision-making process that allows

---

<sup>3</sup> 40 CFR §§ 218.125-218.129

FRA to ultimately make judgment calls on each petition—is specifically designed to ensure that a special approval will never be granted.

The reality is that this regulation significantly and unjustifiably impedes innovation by acting as a barrier to technological improvements, slowing research and development in modern technologies that can enhance productivity and provide other benefits, including benefits to safety. Additionally, the regulation imposes significant regulatory costs on the railroad industry that are not outweighed by public benefits. The final rule’s cost-benefit analysis does not quantify any benefits, safety or otherwise, from the rule. Indeed, FRA has acknowledged that it has no data to suggest that one-person crews are unsafe, even though hundreds of Class II and III railroads regularly operate in the U.S. using one-person crews. The regulatory burden associated with this rulemaking is significant. FRA's original regulatory cost estimate in 2016 ranged between nearly \$6 million and \$28 million. However, FRA's estimate grossly underestimates the actual cost of the rule because it ignores the reduced operational costs that would result in the absence of the rule if railroads were free to move to one-person operations. A detailed analysis by Oliver Wyman in 2016 estimated \$264.7 million in cost savings over the first ten years assuming a gradual implementation of single-person crews. Given that the cost-benefit analysis for the final rule omits the primary categories of costs that the rule imposes, such as the costs involved in seeking special approval for one-person crews and the costs that would otherwise be saved by shifting to one-person crews, the crew size regulation should be repealed. Doing so is consistent with E.O. 14219 and the April 9, 2025, Presidential Memorandum that explicitly instructs agencies to “repeal any regulation that does not sufficiently account for the costs it imposes.”<sup>4</sup>

---

<sup>4</sup> <https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>.

**Regulations requiring time-, event-, and distance-based inspection intervals are  
anachronistic and unnecessarily burdensome.**

Track Inspections

FRA's track safety standards were primarily developed prior to the introduction of many safety-enhancing technologies used by the industry. The regulations have not evolved to take advantage of technological advancements that improve safety. As such, they remain highly prescriptive and do not generally incorporate technology-based inspection methods. A prime example of the outdated, overly prescriptive nature of FRA's track safety regulations is its reliance on periodic visual inspections to detect dangerous conditions related to track geometry.

AAR members have long sought to incorporate technology-based track geometry measurement systems (TGMS) into FRA's regulations, which are currently only authorized for high-speed passenger operations. This would allow railroads to use a combination of TGMS and visual track inspection methods to improve overall safety and operational efficiency. FRA has "acknowledge[d] the safety benefits of this technology, specifically its ability to quickly and accurately detect small changes in track geometry." 89 Fed. Reg. 84845, 84846. However, FRA has been slow to incorporate TGMS into the track safety regulations for operations other than high-speed passenger service. At the end of the Biden Administration, FRA proposed new regulations, but the NPRM simply layered the technology-based inspections on top of the existing visual inspection requirements rather than allowing for an appropriate mix of TGMS and visual inspections. FRA's Biden Administration approach, if finalized as proposed in the NPRM, would result in increased regulatory costs, inefficiency, and reduced safety. Therefore, AAR proposes a rewrite of the existing regulations to facilitate the efficient deployment of critical safety technology such as TGMS.

## Signal Inspections

FRA regulations require time- and event-based visual inspections of signal equipment. Additionally, current regulations are based on old technology, and do not account for the use modern technological tools. In many cases, railroads use self-diagnostic equipment to determine whether signals are functioning correctly, eliminating the need for periodic visual inspections. For example, railroads have had the technological capability to employ microprocessors, which are far more reliable than visual inspections, to assess signal health for some time now. During the first Trump Administration, the rail industry worked with FRA personnel to modernize signal inspection regulations. Those efforts have been dormant for the last four years, but this DOT has the opportunity to implement changes to the signal inspection regulations that reduce regulatory burdens and encourage technological advancements that will improve the safety and efficiency of railroad operations.

## Brake Testing

For four years, the Biden Administration FRA sat on a proposed rulemaking from the first Trump Administration that would have allowed railroads using electronic air brake slip (“eABS”) systems—which are technology-based systems that provide railroads with detailed brake test information for each individual car in a train—to extend the distance certain rail cars may travel (from 1,500 to 2,500 miles) without stopping for mechanical inspections. For decades, extended range dynamic brakes have been the preferred method of controlling train speed; data from longstanding waivers show that the rail cars can travel 2,500 miles, or more, between inspections without a degradation in safety; and reducing the number of intermediate air brake inspections allows railroads to use resources more efficiently by avoiding several hours of delay per train. The proposed eABS rule would also allow the addition and removal of blocks of cars from trains without need for additional brake tests, which increases rail network efficiency and reduces railroad employees' exposure to safety hazards that may result in injuries from actions related to the performance of required brake tests. FRA should prioritize

completing the final rule as contemplated during the first Trump Administration, with changes to allow at least 1,500 miles between Qualified Person (QP) inspections, eliminate unnecessary recordkeeping, and limit record retention durations. According to FRA's 2021 estimate, this would result in regulatory cost savings ranging from \$105.1 million to \$217.3 million (using a 7-percent discount rate) over a 10-year period.

\*\*\*\*

Thank you for your consideration of these comments.

Respectfully submitted,



Stephen N. Gordon  
Associate General Counsel – Safety  
Association of American Railroads  
425 3rd Street, SW, Suite 1000  
Washington, DC 20024

Date: May 5, 2025

Attachment