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FRA Proposes Rule Clarifying the Need to Demonstrate Highest Safety Standards When Submitting Requests for Regulatory Relief

New proposed rulemaking would amend regulations to define the standard, “in the public interest and consistent with railroad safety,” required to obtain waivers and other regulatory relief from FRA safety regulations

WASHINGTON, D.C. – The U.S. Department of Transportation’s Federal Railroad Administration (FRA) today published a notice of proposed rulemaking (NPRM) that seeks to bring clarity, transparency, and consistency to the petition process to help ensure that petitions seeking regulatory relief align with the agency’s safety and public interest priorities.

FRA is proposing to define both the “in the public interest” and “consistent with railroad safety” components of the statutory standard that FRA must use for evaluating whether to grant waiver or suspension requests. FRA proposes that “in the public interest” signify not only how a proposal for regulatory relief may improve railroad operations, but also that they serve the public interest by empowering workers, ensuring fairness, protecting the environment, or creating robust infrastructure amongst other possible positive factors. Requests for waivers and suspensions must also demonstrate that they are “consistent with railroad safety,” defined as resulting in railroad operations that are at least as safe as or safer than without the proposed relief.

FRA is also proposing to require petitions for regulatory relief to include evidence of meaningful consultation with stakeholders. FRA has found that petitions for waivers frequently do not address the potential impacts of their requests on key stakeholders, notably rail workers and communities along a railroad’s right-of-way, leading to extensive work to fill this gap after a petition’s been filed. The proposed rule would streamline this process by requiring railroads to proactively consult and coordinate with appropriate stakeholders most impacted by their requests and submit documentation to FRA.

“FRA’s waiver procedures are designed to ensure that regulatory relief is granted in limited and specific circumstances that create benefits for railroads and the public — such as by advancing innovation,

supporting workers, or strengthening infrastructure — while improving safety,” said **FRA Administrator Amit Bose**. “This proposed rule will help ensure that petitions for regulatory relief meet FRA’s safety standards and align with the agency’s policy priorities to advance the development of a safe, efficient, and resilient American rail network.”

Under the Biden-Harris Administration, USDOT and FRA have taken unprecedented actions to improve rail safety while urging Congress to pass comprehensive rail safety legislation.

- **Finalizing new safety regulations:** USDOT has taken historic steps to improve the safety of railroads for workers and communities through rulemaking.
 - *Train Crew Size Safety Requirements:* FRA issued a long-awaited rule that ensures trains are safely staffed by establishing minimum safety requirements for the size of train crews. The new rule will enhance safety in the rail industry by generally requiring and emphasizing the importance and necessity of a second crewmember on all trains.
 - *Certification of Signal and Dispatcher Employees:* FRA issued final rules to require railroads to develop written programs for certifying dispatchers and signal employees.
 - *Requiring Emergency Escape Breathing Apparatus:* FRA issued a final rule requiring railroads to provide emergency escape breathing apparatus to train crews and other employees when transporting certain hazardous materials.
 - *Advanced Notification for First Responders:* The Pipeline and Hazardous Materials Safety Administration issued a final rule to require railroads to always maintain — and update in real-time — accurate, electronic information about rail hazmat shipments in a train consist that would be accessible to authorized emergency response personnel.
- **Utilizing safety oversight authorities:** FRA is consistently drawing attention to emerging rail safety concerns with more than 20 Safety Advisories and Bulletins combined over the last three years; holding railroads accountable through enforcement action; assessing one of the highest amounts ever in the agency’s records for Class I freight railroads in 2023; and undertaking new, focused efforts to ensure safety, such as conducting safety audits and examining the nation’s high-hazard flammable train routes following the 2023 Norfolk Southern derailment in East Palestine, Ohio.
- **Expanding a vital safety program to include workers at Class I freight railroads:** At Secretary Buttigieg’s urging, a growing number of workers employed at the Class I freight railroads can finally report their experiences to FRA’s Confidential Close Call Reporting System (C3RS) — a vital safety program that allows workers to confidentially report unsafe events and share valuable insight to prevent future incidents.
- **Deploying historic infrastructure investments:** USDOT continues to deploy the historic resources from President Biden’s Bipartisan Infrastructure Law to upgrade rail infrastructure and improve the safety of communities across the country, notably through FRA’s Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program and Railroad Crossing Elimination Program.

FRA is soliciting public comments on this NPRM for 60 days. Comments may be submitted via www.regulations.gov (Docket No. FRA-2024-0033) and by following the online instructions for submitting comments.

The rule, as submitted to the *Federal Register*, can be viewed [here](#).

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