

Advocacy Recommends that FRA Revise and Republish its Regulatory Flexibility Analysis for its Proposed Train Crew Size Safety Requirements Rule

On December 21, 2022, the U.S. Small Business Administration (SBA) Office of Advocacy (Advocacy) submitted comments to the Federal Railroad Administration (FRA) on FRA’s *Proposed Train Crew Size Safety Requirements Rule*.¹ The FRA’s proposed rule would establish minimum requirements for the size of train crews depending on the type of operation, including a minimum requirement of two crewmembers for all railroad operations, with exceptions for operations that do not pose significant risks to railroad employees, the public, or the environment. The proposed rule would also establish minimum requirements for the location of crewmembers on a moving train and permit special approval procedures to allow railroads to petition FRA to continue “legacy operations” with one-person train crews and allow railroads to petition FRA for approval to “initiate a new train operation” with fewer than two crewmembers.²

Advocacy hosted a small business regulatory roundtable on December 12, 2022, to discuss the proposed rule and obtain small business input on it. Staff from FRA, American Short Line and Regional Railroad Association (ASLRRA), other trade associations, and a number of small railroads from the regulated industry participated in the roundtable. Both FRA and ASLRRA provided background briefings on the proposed rule. In addition, Advocacy attended the FRA’s public hearing on the proposed rule on December 14, 2022, to better understand small business concerns with the proposed rule. Advocacy’s comments focus primarily on FRA’s Initial Regulatory Flexibility Analysis (IRFA)³ on the proposed rule and are reflective of small business concerns raised during the roundtable and public hearing.

- FRA appears to have significantly understated the cost and number of small businesses that would be impacted by the proposed rule. Advocacy recommends that FRA reassess its IRFA to be sure it has fully counted the number of and economic impact to small entities that would be subject to the proposed rule.
- FRA should revise and republish its Initial Regulatory Flexibility Analysis (or a Supplemental IRFA), including a further consideration of significant regulatory alternatives that would achieve the agency’s objectives while minimizing costs to small entities, for additional public comment before proceeding.

A complete copy of [Advocacy’s letter to FRA](#) is available. For more information, please contact Assistant Chief Counsel Bruce Lundegren at bruce.lundegren@sba.gov or (202) 205-6144.

¹ 87 Fed. Reg. 45564 (July 28, 2022)].

² 87 Fed. Reg. 45564.

³ 87 Fed. Reg. 45606.

