



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

VIA E-MAIL ONLY

February 11, 2021

Mr. Dennis R. Pierce  
BLET National President  
[Pierce@BLE-T.org](mailto:Pierce@BLE-T.org)

Mr. Jeremy R. Ferguson  
SMART TD President  
[JFerguson@Smart-Union.org](mailto:JFerguson@Smart-Union.org)

**Re: Request for Longer-term Relief due to COVID-19, Docket Number FRA-2020-0093**

Dear Mr. Pierce and Mr. Ferguson:

On December 17, 2020, the Federal Railroad Administration (FRA) published notice of a request from the Brotherhood of Locomotive Engineers and Trainmen and the Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (Petitioners) to extend the relief that FRA previously granted to those organizations in FRA's emergency relief docket (ERD; docket number FRA-2020-0002). Specifically, in a letter dated December 2, 2020,<sup>1</sup> Petitioners requested that FRA renew the relief previously granted<sup>2</sup> from paragraphs (c) and (d) of 49 CFR § 240.403 and paragraph (c) of 49 CFR § 242.503.<sup>3</sup> FRA considered Petitioner's request for renewal under the provisions of 49 CFR § 211.45, *Petitions for Emergency Waivers*, and extended the existing emergency relief for 60 days (i.e., until February 10, 2021).<sup>4</sup> Recognizing Petitioners' indication that they would need longer-term relief,<sup>5</sup> FRA instituted a separate waiver proceeding under 49 CFR § 211.41 to evaluate Petitioners' request for relief on a more long-term basis. FRA assigned that separate waiver

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<sup>1</sup> <https://www.regulations.gov/document?D=FRA-2020-0093-0001>.

<sup>2</sup> <https://www.regulations.gov/document?D=FRA-2020-0002-0113>.

<sup>3</sup> Paragraphs (c) and (d) of § 240.403 require petitions seeking review of a railroad's decision to deny or revoke a locomotive engineer's certification or recertification to be filed with FRA no more than 180 or 120 days, respectively, after the date of a railroad's decision. Paragraph (c) of 49 CFR § 242.503 requires petitions seeking review of a railroad's decision to revoke a conductor's certification to be filed with FRA no more than 120 days after a railroad's decision.

<sup>4</sup> <https://www.regulations.gov/document?D=FRA-2020-0002-0123>.

<sup>5</sup> Petitioners' letter notes that they "continue to experience uncertainty of staff availability during [the] COVID-19 emergency, which has a negative consequent impact on gathering additional relevant information and drafting a proper petition. Accordingly, it is appropriate, necessary, and consistent with railroad safety that the relief previously granted be extended."

proceeding docket number FRA-2020-0093, and this letter responds to the request in that docket.<sup>6</sup>

Due to the ongoing and unpredictable nature of the coronavirus disease 2019 (COVID-19) and consistent with the longer-term relief granted to certain railroads as a result of COVID-19,<sup>7</sup> FRA finds that extending the requested relief is in the public interest and consistent with railroad safety. FRA also finds that granting the requested relief for a period consistent with the relief granted to the railroads (i.e., for the shorter of one year, or three months after the FRA Administrator rescinds the existing Emergency Declaration related to COVID-19)<sup>8</sup> is justified.

Accordingly, FRA grants the requested relief so that the deadline for any petition that becomes due to be filed during the duration of this waiver is extended 60 days for the duration of this waiver.

The relief granted in this letter expires 12 months from the date of this letter, or 3 months after the FRA Administrator rescinds the existing Emergency Declaration related to COVID-19, whichever is sooner.

FRA reserves the right to amend or revoke this waiver upon receipt of information pertaining to the safety of railroad operations, or in the event of non-compliance with any condition of this waiver. FRA also reserves the right to reopen any docket and reconsider any decision made, based upon its own initiative or based upon information or comments otherwise received.

The point of contact for this action is Christian Holt, Staff Director, Operating Practices Division, FRA. Mr. Holt can be reached at 202-366-0978, or at [christian.holt@dot.gov](mailto:christian.holt@dot.gov). In any future correspondence regarding this matter, please refer to docket number FRA-2020-0093.

Sincerely,

Karl Alexy  
Associate Administrator for Railroad Safety  
Chief Safety Officer

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<sup>6</sup> FRA notes that the American Short Line and Regional Railroad Association (ASLRRA) filed comments supporting Petitioners' request for relief. See <https://www.regulations.gov/document?D=FRA-2020-0093-0003>.

<sup>7</sup> See docket numbers FRA-2020-0059, FRA-2020-0060, and FRA-2020-0063 (COVID-19-related relief granted to the Association of American Railroads, ASLRRA, and the American Public Transportation Association).

<sup>8</sup> *Id.*