

Center for Transportation Advancement
A Project of the Parkview Institute
Response to the Officer of the Secretary, Department of Transportation
Request for Information
2025-05557 (90 FR 14593)

I. The Center for Transportation Advancement

The Center for Transportation Advancement, a project of the Parkview Institute (a 501(c)(3) nonprofit organization), was established to:

- *Advance* free market principles within transportation policymaking at the federal, state, and local levels of government.
- *Educate* the public about the importance of free market-oriented policies in transportation and how transportation policy impacts their daily lives, and
- *Empower* individuals, ranging from elected officials to everyday Americans, to become the key voices in favor of a transportation system governed by free market-oriented public policies.

Accordingly, we applaud President Trump’s Executive Orders 14192 and 14219, together with his overall de-regulatory agenda, and various agency-level initiatives such as this effort at Department of Transportation to which we are responding. Please consider us a resource as you develop your action plans to implement DOT’s role in the President’s efforts.

II. Our Proposed Repeal of 49 CFR Part 218.123

We propose the repeal of 49 CFR Part 218.123, the “Two-person train crew size safety requirement.” Adopted in 2024, this regulation requires most freight train operations to take place with a minimum of two train crew members, typically an engineer (who operates the train) and a conductor (who has responsibility for the management of the train, including supervision of the engineer).

Until the 2024 enactment of this regulation, train crew size was largely determined by negotiations between railroad labor and management. While such negotiations were often contentious, they reflected the views and expertise of those most qualified to determine how to safely and profitably move a train across a segment of track. Such negotiations are the essence of freedom and free markets: both labor and management desire to make as much money as possible. Labor’s representatives want as many of its members to obtain paychecks as large as possible, from as many positions as possible, that are worked as safely as possible.

Likewise, management wants to generate as much profit as possible from train operations that are conducted as safely as possible. This alignment of interests is the strongest form of protection for both the general public and those who work on the railroad itself. Rail employees limit their own physical risks: they don’t want to potentially be injured—or worse—in a collision, derailment, chemical release, or other accident. Such accidents place the reputation and solvency of the railroad itself at risk, meaning that management is equally as invested in safe operations as is labor. Thus, the safe and efficient movement of people and cargo across the country by rail serves and protects the public, rather than placing it at risk.

III. Historical Examples of Crew Size Regulation

Frequently, however, there have been attempts to undercut this balance. In recent years, localities have attempted to ban remote control train operations within their borders. States have sought to regulate train crew sizes, and the federal government followed in 2024 with the regulation in question here. Prior to the current onslaught of legislating and rulemaking, many states had “Full Crew” laws that mandated crew sizes. As of 1917, according to *The Dixie Magazine*, 22 states had such laws, with examples such as:

- “CALI FORNIA-Passenger trains of under 4 cars, 5 men. over 4 cars, 6 men, where running 4 trains each way per day.

Freight trains of over 50 cars or on divisions having one per cent grade and running more than 4 trains each way per day, 6 men—trains on divisions having 1 percent to 1½ per cent grade and carrying over 76 cars, running over 4 trains each way per day, 7 men.”
- “TEXAS-Passenger trains, 4 men; freight trains, 5 men.

Switching engines, 3 men.¹”

What possessed the California legislature to make its own determination about why 5 men were necessary aboard a passenger train, and why more people are required per train if you are running 4 trains each way per day? What does the 7th man add (aside from weight) to a 77-car train on a rail line with a greater than a 1½ per cent grade? The same questions should be asked of Texas, especially because in the same period, both Pennsylvania and New Jersey repealed their full crew laws and North Dakota had none to begin with.¹

The “Two-person train crew size safety requirement” is no less absurdly constructed than the archaic—and now gone—laws of the early 1900s. Both the regulation at issue and the prehistoric versions referenced above suffer from the same shortcomings:

- **Inflexibility:** Neither the old laws, nor the present-day regulation recognize the difficulty in hiring and training qualified crew members. In the early 1900s and in the 2020s, new hires must gain experience with the literal nuts-and-bolts of operating different types of trains, train equipment, and specific routes.

This includes the route qualification process where engineers and conductors must demonstrate knowledge of every nuance of a particular line—the location and length of sidings, speed limits, gradients, and much more. Consider doing the same in order to drive your car over a particular road. That many Americans would be unable to complete such a qualifying process, for roads they travel on their daily commutes, highlights the difficulty in training and retaining qualified personnel.

¹ *The Dixie Magazine*. Unknown Date. Unknown Author. Arkansas Studies Research Portal. Accessed 4:07pm, May 5, 2025.

Arbitrarily mandating crew size therefore arbitrarily limits railroad capacity. This is because rail carriers are denied the flexibility which comes with assigning crew members to areas where they are needed. The losers in all of this? Railroad customers, to be sure, but the lack of flexibility ultimately redounds to us, the general public, who indirectly rely on freight rail for many of the items we have in our refrigerators, living rooms, and even the cars in our garages.

- **Limiting Competitiveness:** The crew size of a truck depends on two factors:
 - The Hours of Service law, which limits how long a trucker may operate his vehicle before taking a rest.
 - The length, in hours, of that particular trip.

Contrast that with federal regulation specifying crew sizes. This creates a cost imbalance that will likely be seen in the form of more freight moving by directly-subsidized modes of transportation—truck and waterway—rather than taking advantage of several price- and service-competitive modes, which include rail.

Again, the losers are the American People as we will contend with:

- Lower margins for safety thanks to more trucks on highways and byways.
- Higher road maintenance costs.
- Reduced ability for private railroads to maintain infrastructure that supports passenger trains.
- Longer trip times for trucks, buses, and private automobiles.

Therefore, while the concept of mandating crew size might sound good to the novice commentator, the real-world negative externalities of this will be borne by the general public if this regulation is not repealed.

IV. Innovation Wins the Crew Size Debate

The two-person crew requirement also ignores the benefits of innovation. The mere concept of the two-man crew would have been no more than a fanciful conversation during the early 1900s, when steam locomotives were the norm and each locomotive required a minimum of two men—the engineer and fireman—in the cab.

An example comes to us from the 1949 book Railroads of Today, by noted rail author S. Kip Farrington, Jr. Chapter 8 discusses the Western Maryland Railway, which served Maryland, Pennsylvania, and West Virginia. This included a description of moving an 80-car coal train over a West Virginia line segment—with no fewer than **6** “helper” engines (“Helper” engines are added to the front- and/or middle of a train to assist in over a segment of track where the regularly-assigned locomotives are unable to handle the workload. Closely-related are “pusher” engines, which serve the same function, but are added to the rear of a train), each of which required a minimum of an engineer and a fireman.²

² Railroads of Today. Farrington, S. Kip. 1949. Coward-McCann, Inc. pp. 81-82.

When adding the engineer and fireman for the regularly-assigned locomotive, no fewer than 14 people were engaged in operating locomotives alone for the select portion of that specific run.

What solved this labor conundrum was the innovation known as the diesel-electric locomotive. Now commonplace, diesel-electrics generate the most tractive effort (i.e. pulling power) at low speeds, and several can be controlled from a single cab, meaning individual crew members for each locomotive was no longer necessary. This innovation made it possible for railroads to take skilled crew members and either deploy them to other parts of their network, thereby increasing capacity, or reduce staffing (and costs), making the cost of operations—and moving freight by rail—cheaper.

V. The East Palestine Question

The discussion over crew size was revived during the 2023 East Palestine, OH derailment when media and other voices attempted to implicate the size of the train crew as a factor in the incident. It should be noted the incident train had **three** crew members, rather than the two crew members specified by the “Two-person train crew size safety requirement.”

This fact, alone, highlights how increased crew size does **not** correspond to increased train safety, once again demonstrating why crew size should be determined by voluntary negotiations between rail carriers and railroad labor, rather than government fiat.

VI. Conclusion: Repeal with Confidence

When combining the ever-improving safety record of America’s railroads with the power of innovation, and the history of failed attempts to mandate railroad crew size, Department of Transportation and Federal Railroad Administration can feel confident that repealing this onerous regulation will provide a positive benefit for railroad safety and growth—rather than negatively impacting rail safety.

I am available to discuss this further at length. I have included my contact information below and thank you for your interest in the private sector as a partner in developing America’s 21st Century transportation network.

Sincerely,

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