



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

April 7, 2020

VIA E-MAIL ONLY

Mr. Dennis R. Pierce  
BLET National President  
Pierce@BLE-T.org

Mr. Jeremy R. Ferguson  
SMART TD President  
JFerguson@Smart-Union.org

**Re: Emergency Docket FRA-2020-0002**

Dear Mr. Pierce and Mr. Ferguson:

This letter is in reply to the March 30, 2020, petition filed jointly by the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the Transportation Division of the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART TD) in Docket Number FRA-2020-0002 (“Joint Petition”). In the Joint Petition, BLET and SMART TD request temporary emergency relief from certain requirements of Title 49 Code of Federal Regulations (CFR) Parts 240 and 242 governing locomotive engineer and conductor certification.

Specifically, due to the coronavirus disease 2019 (COVID-19) public health emergency, BLET and SMART TD requested a 60-day extension of the time limits set forth in §§ 240.403 and 242.503 (*Petition requirements*) for filing petitions for review of railroads’ decisions to deny or revoke the certifications of locomotive engineers or conductors.

On March 13, 2020, the Federal Railroad Administration (FRA) Administrator Ronald L. Batory activated the emergency relief docket (ERD) in response to the COVID-19 public health emergency occurring throughout the United States. Accordingly, FRA considered the Joint Petition under the provisions of 49 CFR § 211.45, *Petitions for Emergency Waivers of Safety Rules*. A copy of the Joint Petition is available for public review and comment in the ERD (Docket Number FRA-2020-0002; Document Number FRA-2020-0002-0033).

In support of their request for relief, BLET and SMART TD noted FRA’s March 25, 2020, waiver from certain requirements of 49 CFR Parts 240 and 242 related to deadlines for responding to petitions submitted to FRA’s Operating Crew Review Board (“Board”) granted to the Association of American Railroads, the American Short Line and Regional Railroad

Association, and the American Public Transportation Association (together referred to as the “Associations”). BLET and SMART TD assert that as a result of the COVID-19 public health emergency, they and their members face “even greater difficulty in timely filing petitions for review” than the Associations and their members will have in responding to those petitions. BLET and SMART TD cite to expected “uncertainty of staff availability during [the] COVID-19 emergency” and the resulting negative impact on their ability to gather additional relevant information and to draft proper petitions within the normal required time frames.

FRA considered BLET and SMART TD’s request for relief and concluded that granting the requested relief would be in the public interest, necessary to address the COVID-19 public health emergency, and is not inconsistent with railroad safety. Accordingly, FRA grants BLET and SMART TD temporary emergency relief from the 180- and 120-day deadlines in § 240.403(c) and (d), and § 242.503(c), so that the deadline for any petition that becomes due to be filed during the duration of this waiver is extended 60 days.<sup>1</sup>

The Board reserves the right to reopen any docket and reconsider any decision made pursuant to these emergency procedures based upon its own initiative or based upon information or comments otherwise received. *See* 49 CFR § 211.45(j)(1).

This emergency waiver expires 60 days from the date of this letter, or when the FRA Administrator’s Emergency Declaration is revoked, 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.

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. In any future correspondence regarding this matter, please refer to Docket Number FRA-2020-0002, Document Number FRA-2020-0002-0033.

Sincerely,

Karl Alexy  
Associate Administrator for Railroad Safety  
Chief Safety Officer

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<sup>1</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 § 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.