



January 30, 2012

The Honorable Joseph C. Szabo
Administrator
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Docket Number FRA–2008-0059
SUPPORT OF PETITION FOR RECONSIDERATION
SUBMITTED BY THE ASSOCIATION OF AMERICAN RAILROADS

Dear Administrator Szabo:

On behalf of the 1,500 member organizations of the American Public Transportation Association (APTA), I write to support the Association of American Railroads' petition for reconsideration regarding the Federal Railroad Administration's (FRA) Final Rule on Railroad Workplace Safety; Adjacent-Controlled-Track On-Track Safety for Roadway Workers, published November 30, 2011 at 76 FR 74586. APTA submits this statement of support on the basis of cost and impact to scheduled train service not addressed in the NPRM or in the Final Rule.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems. The vast majority of commuter rail service provided in the United States is provided by APTA member railroads.

Reasons for Support of the Petition

APTA and its members have been involved with the development of this rulemaking process and active supporters of the RSAC consensus-based process, which developed the improvements to the adjacent track issues. APTA concurs with and is in full support of the Petition for Reconsideration filed by the Association of American Railroads and the American Short Line Railroad Association in their comments to the FRA. The changes made by the FRA in the Final Rule substantially affect the cost and operations of America's Commuter Rail network upon which millions of Americans depend daily to provide cost effective and reliable transportation.

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APTA provided input to the FRA's Notice of Proposed Rulemaking concerning the impact of the speed reduction for adjacent track operations. FRA failed to address these concerns and, in fact, added new language to the Final Rule that was never discussed in the consensus-based RSAC process. This language creates a new definition of controlled adjacent track and also requires non-controlled adjacent track to be restricted in the same manner as controlled adjacent track, requiring lower speeds which will adversely affect train schedules. Affecting train schedules also affects the cost of scheduled train operations, an impact which was not included in the economic analysis conducted within the rulemaking process.

FRA dismissed APTA's request to raise its proposed threshold speed from 25 mph to 40 mph for passenger railroads. The FRA analysis of that request in section VI (D)(5)(d) of the preamble to the Final Rule stated that passenger trains are shorter, do not present the dangers of shifted loads and would therefore require only a limited amount of time while work would not be permitted to continue on the side of the occupied track closest to the movement and between the rails of the occupied track as passenger trains passed. While FRA may have reasonably assessed the delay to the track work, it failed to account for the concomitant delay of scheduled train service if all speeds on adjacent track were held below 25 mph. Moreover, this provision threatens to disrupt additional scheduled train operations through expansion of this analysis for controlled adjacent track to non-controlled adjacent track.

The cost analysis performed by FRA to address the impacts from this Final Rule are silent concerning impact to scheduled passenger train service and the millions of commuters that depend on reliable service.

We appreciate the opportunity to assist FRA in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,



Michael P. Melaniphy
President & CEO

MPM/bg/jr