



February 7, 2011

U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Avenue, SE
W12 – 140, West Building
Washington, DC 20590

RE: Docket Number FRA–2009–0038

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Railroad Administration’s (FRA) Advance Notice of Proposed Rulemaking (ANPRM) on the Risk Reduction Program, published December 8, 2010, at 75 FR 76345.

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.

General Comments

Because the specific questions asked in the ANPRM have substantially different implications for the various commuter railroads, we have asked the individual railroads to provide comments on those specific issues directly to FRA.

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Interaction of the Risk Reduction and System Safety Program Plans

We believe FRA should clarify the interaction of the Risk Reduction Program (RRP) and the System Safety Program Plan (SSPP) requirements. FRA should affirmatively and unambiguously state that compliance with the SSPP will fulfill all RRP requirements of the Rail Safety Improvement Act of 2008. This would be consistent with FRA's stated position throughout development of the SSPP program as stated in the current draft under section 201.107(i) as follows:

"A system safety program as defined by this Part is a railroad safety risk reduction program as defined in 49 U.S.C. 20156. Approved system safety programs shall satisfy federal requirements for railroad safety risk reduction programs and receive the same legal protections provided to other risk reduction programs."

Additionally, FRA should clarify the interaction of the RRP and the SSPP program plans and the core elements of those plans, such as has been identified in the draft SSPP with particular attention given to sections 201.101(ii)(d)(e). A freight railroad operating under a RRP can "host" a passenger railroad operating under a SSPP and vice versa. A freight railroad can act as a contractor to provide passenger services and operate under both a RRP and a SSPP on the same track. A passenger railroad can act as a contractor to operate on behalf of another passenger railroad operator on a "hosting" freight railroad and be subject to both a RRP and a SSPP. The intentions of the FRA should clearly be addressed in the rule to provide all parties an understanding of the interrelationship of the RRP and SSPP rules in general and specifically to the following areas:

- RRP and SSPP integration in joint track and shared corridor situations.
- The outcome of a Risk Based Hazard Management under a RRP and a SSPP could result in different outcomes or the outcome could be the same but the risk controls, including acceptance of residual risk on the parties involved (passenger railroad, freight railroad or contractor), may not be agreeable.
- Consistency in training criteria, operational and worker safety, and reporting programs in joint or shared rail corridors.
- Collaboration on emergency management planning, response and recovery.
- Coordination on change management and on safety assessments.
- Where a passenger railroad operating under a SSPP, is host to a freight operator, operating under a RRP.

Finally, we urge FRA to create a mechanism to determine which program's requirements will apply when passenger railroads, host railroads and contractors operating rail service disagree. Expedient, final decisions of the FRA in these situations will be vital to compliance and eliminate extended negotiation periods that could lead to non-compliance.

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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,

A handwritten signature in cursive script that reads "William Millar".

William Millar
President

WM/pwd