American Short Line and Regional Railroad Association

March 7, 2022

The Honorable Amit Bose
Administrator
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590

Dear Administrator Bose:

Thank you for the invitation and opportunity in January to discuss supply chain issues, pop-up facilities and the new infrastructure legislation. It was a pleasure and honor to speak with you as well as with Chairman Martin J. Oberman, Port Envoy John D. Porcari, your respective staffs and the other interested stakeholders on the call. On behalf of the American Short Line and Regional Railroad Association (ASLRRA), I can say all of the individuals from the short line freight rail industry who participated in the call are enormously grateful for your time, candor and willingness to listen and work together to address the supply chain challenges we all face.

Since our conversation, we've been in touch with your staff at FRA to follow up on some items raised in the discussion. Much of this follow-up activity has involved providing insights and ideas from our member railroads directly to your staff at your staff's direction. In addition, since our conversation, we at ASLRRA have reflected further on what other steps FRA can take in the near-term to possibly catalyze pop-up operations and ease congestion. We wanted to propose these two additional items with you for your consideration and possible further agency action in the days ahead. We provide these to you in the spirit of ongoing collaboration and dialogue and stand ready to engage in additional dialogue on advancing these ideas as necessary.

Minor revisions to categorical exclusions under NEPA

Our member railroads are often the custodians or tenants of older bridges and infrastructure originally built by larger railroads many decades, even over a century, earlier. This infrastructure often cannot accommodate the industry-standard 286,000-lb and 315,000-lb freight railcars operating in Class I railroad service. This leads to light-loading of cars interchanged between Class I railroads and Class II and III railroads, impacting logistics costs and efficiency for the shippers on smaller railroads and reducing overall freight rail system capacity. These limitations can drive a shipper's cargo onto less efficient and higher-GHG-emissions-generating trucks – even if the shipper is directly rail-served – due to the costs imposed by the railcar weight capacity limits.

Our members are advancing projects to fix many of these problems on railroad-owned infrastructure, which will enhance fluidity and open new routes for commerce. But the current environmental framework can add significant costs and time to the project-permitting process. In order to lessen these barriers, FRA could move to make minor revisions to two categorical exclusions to the National Environmental Policy Act (NEPA) in the DOT implementing regulations at 23 CFR Part 771, ensuring that certain project types that typically do not

have significant environmental impacts do not automatically fall into higher level classes of action. While we recognize these changes may not occur overnight, we bring them to your attention as reasonable steps under agency authority that could streamline the permitting process for these types of projects that inherently make important contributions to logistics efficiency and capacity in supply chains.

First, we suggest a minor revision to 23 CFR § 771.116(c)(21). Under the current framework, certain projects are eligible for a categorical exclusion if they involve projects causing a minimal amount of surface disturbance, i.e., ten acres. This surface area is too small, however, to cover many short line yard projects, like ones that could lead to more transloading capacity and storage facilities. These projects are often initiated to decongest short line railroads struggling to manage modern operations and customer service and interchange expectations with obsolete legacy track layouts. We suggest an increase of the surface area to twenty acres. This would enable FRA's categorical exclusion determinations to accommodate new rail yards of the size more likely to be ideally scoped by Class II and III railroads, when those projects indeed do not have a significant impact on their environment. This surface area is sufficient for yards that can handle the more typical volume of railcars interchanged in service with trains of an average length in Class I road haul service, with sufficient free space to enable efficient yard switching operations and arrival and departure of trains, including some buffer for car and locomotive storage. This acreage would accommodate the necessary tracks with adjacent space for movements of trucks and equipment for transload operations and meet minimal expectations for a modern facility of this type. Streamlining the construction of these smaller yards on short line and regional railroads is a way to relatively quickly bring more capacity and flexibility into the national rail network, with particular benefits to small and medium-sized shipper businesses and in rural areas. This change could also encourage extension of intermodal container networks into areas outside of larger urban areas, reducing truck drays and transload costs for many smaller and medium-sized shipper enterprises. Speeding the construction of more "micro" yards like this will take pressure off the major yards operated by Class I railroads and ports. The redline language below outlines such a change:

> (21) Assembly or construction of facilities or stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities, and result in approximately less than ~~ten~~ twenty acres of surface disturbance, such as storage and maintenance facilities, freight or passenger loading and unloading facilities, yards, intermodal yards, or stations, parking facilities, passenger platforms, canopies, shelters, pedestrian overpasses or underpasses, paving, or landscaping.

Second, we also suggest a minor revision to 23 CFR § 771.116(c)(17). Under the current framework, certain projects are eligible for a categorical exclusion if they involve limited water construction activities. These types of activities are common for our members, who are routinely working to upgrade track to carry standard weight railcars – especially on aging bridges. The current categorical exclusion, however, is drafted in a manner lacking total clarity to encompass common scope elements of these projects. It could be interpreted to encourage an environmental assessment determination rather than a categorical exclusion for bridge work, even in the absence of a clear significant impact on the environment. We suggest revising this category to provide clarity for eligibility for projects that involve non-permanent, insignificant changes to waterways and to further delineate the scope of in-water work that can occur and clearly still be a candidate for a categorical exclusion (in the case that there is no significant environmental impact). This change would provide clarity to reviewers that the categorical exclusion determination is always an option, when appropriate, in cases of full replacement of bridges involving in-water work down to replacing piers, footings and piles in the watercourse. The redline language below outlines such a change:

> (17) The rehabilitation, reconstruction or replacement of bridges, the rehabilitation or maintenance of the rail elements of docks or piers for the purposes of intermodal transfers, and the construction of bridges, culverts, or grade separation projects that are predominantly within existing right-of-way and that do not ~~involve extensive in-water construction activities~~ result in permanent and significant

modifications of the channel or watercourse, ~~such as~~ including projects replacing bridge components including abutments, wing walls, stringers, caps, piles, piers, footers, foundations, or decks, the construction of roadway overpasses to replace at-grade crossings, construction or reconstruction of approaches or embankments to bridges, or construction or replacement of ~~short span~~ bridges

These minor revisions will create more freight system fluidity, open new arteries for movement of goods and freight, incentivize movement of more materials by rail (thereby limiting traffic-clogging highway congestion) and enhance network interoperability. These are actions your office can begin advancing in relative short order to improve problems plaguing the supply chain.

Again, thank you for the frank and fruitful discussion last month and for your continued work on behalf of the short line freight rail industry.

Sincerely,

Chuck Baker
President
American Short Line and Regional Railroad Association (ASLRRA)

Cc: Chairman Martin J. Oberman, Surface Transportation Board
Port Envoy John D. Porcari, Supply Chain Task Force