UNITED STATES DEPARTMENT OF TRANSPORTATION
BUILD AMERICA BUREAU

DOCKET NO. DOT-OST-2024-0006 NOTICE OF PROPOSED RULEMAKING AMENDMENT TO THE RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM AND TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT PROGRAM REGULATIONS

COMMENTS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

The American Short Line and Regional Railroad Association (ASLRRA) submits these comments in response to the captioned proposed rulemaking.

The American Short Line and Regional Railroad Association

ASLRRA is a non-profit trade association representing the interests of more than 600 short line railroads in legislative, regulatory and policy matters. Short lines operate 50,000 miles of track, or approximately 30% of the national freight network, employing approximately 18,000 people, and connecting thousands of manufacturers, businesses, and farmers in rural communities and small towns to larger markets, urban centers, and ports. Short line railroads play a vital role in providing rail service by maintaining tens of thousands of miles of light density rail lines throughout the country that, in many cases, were at risk of abandonment by their former owners.

Most of these railroads are custodians of assets that came into their hands after many years of deferred capital investment. ASLRRA estimates there is a backlog of capital needs in our industry exceeding $12 billion. Federal funding and financing are important resources for short lines as they work to bring their networks to an improved state of repair. Short lines have been able to access significant amounts of federal funding in recent years through grant programs such as the Consolidated Rail Infrastructure and Safety Improvements (CRISI) program. In addition, federal tax provisions like the 45G tax credit, made permanent in 2020, have led to significant investments in the country's short line freight rail architecture.

The RRIF program has the potential to be a useful and unique financing tool for short lines as a complement to grant funding and private capital, and it is one that could create substantial public benefits if deployed more regularly. Congress established in law a set-aside of $7 billion for short lines out of $35 billion in total program lending capacity. In the early years of the RRIF program, short lines received a meaningful proportion of the loans that were made – 27 loans to short lines between 2002 and 2011. However, RRIF lending activity in support of short lines since then has tapered down to a small outstanding portfolio and distressingly infrequent new loan originations. ASLRRA was pleased to see a $31.4 million RRIF loan to a short line approved in January of this year. But put in perspective, the interval from this loan to the prior short line loan was almost four years—and approximately the same amount of time to the short line loan originated prior to that. In total, there have only been three short line loans since 2011. ASLRRA continues to be supportive of the Bureau's efforts to make their credit programs more accessible, efficient, and useful to the short line railroad community, particularly the RRIF program, and urges the Bureau to push harder in this regard.

Interest Rate Setting for TIFIA and RRIF Obligations with a Long Tenor

The IIJA amended the TIFIA and RRIF statutes to enable obligations with long tenors, up to 75 years following substantial completion of the funded project. ASLRRA was supportive of the inclusion of this provision in the IIJA. The methodology proposed for the related interest rate adjustments is clearly derived from existing federal credit frameworks and the cited analytical work by the Federal Reserve Bank of San Francisco. We think that this approach is reasonable, and we support this regulatory change.

Interest Rate Spread on RRIF Direct Loans and Loan Guarantees with a Positive CRP

ASLRRA understands the potential challenge presented to the Bureau and borrowers in the case of a positive subsidy cost, also called a credit risk premium (CRP), being levied on RRIF loans where CRP repayment by the Department will be required upon satisfaction of the obligation. The proposed rulemaking amendment enables integration of a positive-CRP-equivalent as a component of the interest rate, by adding a rate spread, to avoid the levying of a cost prohibitive CRP.

ASLRRA believes that this rule change could be supportive of lending to short lines by enabling effective amortization of the subsidy cost over the term of a loan for these borrowers. We support this regulatory change.

Submitting and Point of Contact

Respectfully submitted,

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