

**BEFORE THE
DEPARTMENT OF TRANSPORTATION**

**DOT-OST-2026-3269
AMERICA’S GREAT CORRIDORS OF COMMERCE; REQUEST
FOR INFORMATION**

**RESPONSE OF THE ASSOCIATION OF AMERICAN
RAILROADS
AND
THE AMERICAN SHORT LINE AND REGIONAL RAILROAD
ASSOCIATION**

The Association of American Railroads (“AAR”)¹ and the American Short Line and Regional Railroad Association (“ASLRRA”) (jointly, the “Associations”), on behalf of themselves and respective their member freight railroads, respectfully submit the following comments on the Department of Transportation’s (“DOT”) request for information on America’s Great Corridors of Commerce (“AGCC” or “RFI”).² The Associations wish to provide information related to how the AGCC can be implemented while ensuring safety during construction, operations, and maintenance.³ Specifically, the Associations provide information on safety and operational considerations that must be taken into account when analyzing the colocation of energy infrastructure along railroad rights-of-way (“ROW”).

AAR is a non-profit industry association whose membership includes freight railroads that operate 83 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States. AAR also represents passenger railroads that operate intercity passenger trains and provide commuter rail service.

¹ AAR submits these comments on behalf of its freight railroad members. The National Railroad Passenger Corporation, or Amtrak, will submit comments separately.

² 91 Fed. Reg. 53479 (Aug. 18, 2026).

³ *Id.* at 53482.

ASLRRA is a nonprofit trade association representing over 500 Class II and Class III freight railroads (“short lines”) throughout North America. Short lines operate nearly 50,000 route miles in the United States, or approximately 30% of the national freight network, touching in origin or destination one out of every five railcars moving on the national railroad system, serving customers who otherwise would not have practical access to the national railroad network.

Railroads are the most fuel-efficient way to move freight long distances over land. On average, railroads are three to four times more fuel efficient than trucks, with a single train removing several hundred trucks from the nation’s congested highways.⁴ This is important because the rail industry accounts for roughly 40% of U.S. long-distance freight volume – more than any other mode. Railroads are also critical to the national and global supply chains and are an integral part of the nation’s transportation infrastructure.⁵

I. Introduction

The freight rail industry is not a combination of discrete, unconnected railroads. Rather, it is a single interconnected system comprised of six Class I railroads and hundreds of short lines that own and maintain over 160,000 route-miles of track throughout North America. In most areas of the United States where passenger railroads operate, they do so over track owned by the freight railroads.

The Associations and their members support the goals of DOT’s voluntary AGCC initiative: “unleashing opportunities for both highway and railroad ROW owners to generate revenue streams through utility colocation that can fund transportation improvement projects, while simultaneously delivering significant economic development to these areas.”⁶

However, this initiative does not represent a new undertaking for railroads. Rather, railroads have long contracted with utilities and telecommunications companies to allow

⁴ Association of American Railroads, *Freight Railroads & Climate Change* (June 2023) (<https://www.aar.org/wp-content/uploads/2023/06/AAR-Climate-Change-2023-Report.pdf>).

⁵ *Id.*

⁶ 91 Fed. Reg. 53479-80.

access to ROWs. Railroads and their counterparties regularly collaborate on engineering and construction plans, timelines, and proper safety protections for crews, flaggers, and the public while minimizing impacts on rail transportation. The railroads welcome collaborations with DOT or Federal Railroad Administration (“FRA”) staff to help further promote safe and efficient ROW access.

II. Safety Must Be the First Priority for ROW Access.

Railroads prioritize safety. Indeed, the freight rail industry invests about \$25 billion of its own money each year to maintain and improve the national rail network. Through these investments, railroads modernize infrastructure and improve safety by funding the installation and maintenance of important safety technology along the railroad ROW. Construction on or near ROWs requires careful planning and strict safety protocols. Unauthorized entry onto railroad property has caused preventable tragedies. Parties seeking to access rail infrastructure as part of the AGCC must share this unwavering commitment to safety and follow the well-established procedures of railroads.

Data shows steady year-over-year safety improvements, strong long-term safety gains, and clear evidence that ongoing investment in rail infrastructure and technology is paying off. In fact, 2025 was a record-breaking year for the rail industry: derailments, collisions, track-caused accidents, and Class I injury rates fell to historic lows, and the overall train accident rate was down 14 percent year-over-year.

Over the past several decades, railroads have installed significant safety-related infrastructure beneath and along their ROWs. This includes wayside detection equipment, track monitoring systems, real-time diagnostic tools for signal systems, and communications technology such as Positive Train Control (“PTC”). PTC is a critical safety system that relies on wireless networks sharing real-time data between trains, trackside equipment, and central offices to prevent certain accidents that can be caused by human error. Train control signals and active grade crossing warning systems also are placed along the ROW to safeguard railroad employees and the general public. In addition, railroads routinely work with a variety of entities that either collocate on or cross ROWs, including electric, pipeline, and telecommunications infrastructure – making coordination

and communication critical for the safety of rail employees, crews working within the ROW, and the general public.

a. Unauthorized Construction on a ROW Threatens the Safety of Everyone Near the ROW.

Railroads are constantly inspecting and maintaining their infrastructure in an effort to ensure that modern freight trains can continue to traverse the country safely and efficiently. Stability of railway embankments is paramount for safe and efficient railroad operations⁷ and the condition of the ballast and the subgrade at all depths are key factors in the stability of the track structure.⁸

Even minor flaws in track structure can result in potentially catastrophic incidents.⁹ Modern-day freight trains in conjunction with ever-changing phenomena such as weather, changing water flow and drainage patterns, and resulting erosion, put an immense amount of stress on the structure and substructure of a ROW, causing them to shift and change.¹⁰ These track deviations are often invisible to the naked eye, requiring special technology and deliberate processes to detect and safely remedy them.¹¹ The gradual development of many such natural occurrences at least affords the railroads the opportunity to address them before they present operational problems.

Damage from improper access to railroad property, however, may remain undetected until it is too late to prevent catastrophic harm. The 2017 derailment of a High Hazard Flammable Train carrying crude oil caused by a 10x4 foot void “vacant of ballast”

⁷ Perez et al, Soil Stabilization Techniques for Enhancing Railway Embankment Stability, at 1, Dec. 2022, https://www.researchgate.net/publication/387958681_soil_stabilization_techniques_for_enhancing_railway_embankment_stability (last accessed August 25, 2026).

⁸ Transportation Research Board, *Ballast and Subgrade Response to Train Loads*, 53-54 (1978).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Wilk et al., Inspection of Ballast Pockets, TD21-021, August 2021, <https://www.mxvrail.com/wp-content/uploads/2023/01/TD21-021.pdf> (last accessed August 25, 2026).

created by a third-party's boring operations is just one example.¹² The incident caused approximately \$ 2.99 million (2017\$) in damage to railroad equipment and infrastructure when 19 loaded tank cars carrying hazardous materials derailed. However, those costs are just a fraction of the overall cost of the derailment because they do not factor in costs associated with the release of hazardous materials that required the evacuation of a surrounding half-mile area and resulted in substantial environmental damage that required subsequent remediation.¹³

Passenger trains are no more immune to these dangers than freight carriers. Although individual railroads may be responsible for a particular stretch of track, the interconnected nature of the national rail network means that multiple rail carriers, including passenger rail operators, often travel over the same tracks. This leaves passenger trains just as vulnerable to track damage caused by third parties as any other equipment.

The risk to passenger trains is not speculative. In 2016, an Amtrak train carrying 144 people derailed while traveling on a Class I track in Kansas.¹⁴ The accident was caused by an adjacent landowner, whose truck had struck the edge of the tracks just hours before the Amtrak train would approach the area, causing them to become misaligned.¹⁵ Despite having watched their truck roll free and strike the tracks, the adjacent landowner's employees failed to contact the railroad to report the incident.¹⁶ Twenty-eight people aboard the Amtrak train were injured.¹⁷

¹² See Federal Railroad Administration, FRA Factual Railroad Accident Report, FRA File #R4-2017-1211, at 1, 6.

¹³ *Id.* at 1. See also, Zanger, Hundreds Lose Power After Train Hits Overhead Wires in Elizabeth City, NJ, CBS News, <https://www.cbsnews.com/newyork/news/freight-trian-hits-power-lines-in-elizabeth-nj/> (last accessed June 25, 2025); Ryan Medeiros, Train Takes Down Wires, Crossing Gates, in New Bedford, WLNE, <https://www.abc6.com/train-takes-down-wires-crossing-gates-in-new-bedford/> (last accessed June 25, 2025).

¹⁴ See NTSB, Railroad Accident Brief, Amtrak Train Derailment on BNSF Railway Tracks, Cimarron, Kansas, DCA16MR003, at 1.

¹⁵ *Id.* at 9-10.

¹⁶ *Id.*

¹⁷ *Id.* at 1.

The signal lines and cables that railroads have installed along their tracks are also at risk. These installations, often invisible at the surface, are critical to safe rail transportation but vulnerable to damage caused by unwitting and uncoordinated attempts to install broadband or other utilities. As above, this is not a hypothetical concern. For example, a contractor working on behalf of a broadband provider cut power to protective gates at a railroad-highway grade crossing in Michigan. The crossing gates, operating as intended, responded to the loss of signal by closing off the crossing to road traffic. The broadband contractor then left the area, but only after manually overriding this built-in safety feature by tying up the gates such that automotive traffic could unknowingly traverse the railroad tracks into the path of oncoming trains.

Beyond the risk of physically severing signal cables and related infrastructure, high-voltage powerlines installed near railroad signal circuits can induce stray currents that disrupt or falsely trigger the signal system—and the grade-crossing warnings, switches, and train-control functions that rely on it—often in ways that go undetected until a failure occurs.

b. Merely Accessing a ROW Without Authorization is a Safety Risk.

Even absent construction, unauthorized access to ROW without proper coordination with the railroad carries lethal risks. FRA has explicit regulations addressing roadway worker protection.¹⁸ The stated purpose of FRA’s regulations are “to prevent accidents and casualties caused by moving railroad cars, locomotives, or roadway maintenance machines striking roadway workers or roadway maintenance machines.”¹⁹ Only the railroad itself has the requisite knowledge and expertise to authorize, plan, and coordinate ROW access safely, as the railroad is the sole entity with a complete understanding of its schedule for train operations, safety inspections, maintenance, and other necessary activities at a particular location on any particular day.

This grim reality is illustrated by a 2014 incident in Jesup, Georgia, where a film production crew, after having been denied permission by a Class I railroad to film on a

¹⁸ 49 C.F.R. part 214, subpart C.

¹⁹ 49 C.F.R. § 214.301(a).

railroad bridge, ignored the railroad prohibition and accessed the property anyway.²⁰ The crew entered the railroad property by coordinating with the owner of the surrounding land.²¹ Tragically, as a train passed over the bridge, it struck a large prop the crew had brought with them, launching debris at the group.²² One crew member was killed and six others were injured.²³

The NTSB investigated the incident and determined that the Class I railroad expressly denied permission for the crew to film on the property due to “concern for the safety of those accessing and working on our railroad, security consideration, and [the railroad’s] commitment to ensuring on-schedule train operations.”²⁴ After its investigation, the NTSB primarily faulted the film crew for accessing railroad property without permission.²⁵

As is evidenced by this example, even unauthorized access to ROW for scoping or evaluation can result in tragedy and, as railroad ROWs are private property, is trespassing.

III. FRA Expertise Could be Useful in Helping Utilities Submit Complete and Adequate Applications.

Extensive federal regulation governs the construction and maintenance of the entire track structure, including ballast and subgrade, and imposes broad-ranging duties on the railroads to ensure their ROWs comply with these requirements.²⁶ To effectuate these regulatory responsibilities, railroads must be permitted to control the design, makeup, and condition of their infrastructure.

To that end, each railroad has a formal approval process to work near or under the ROW. These applications can be complex and require a professional engineering plan. The process for each railroad may vary, but generally a finished engineering plan includes

²⁰ See National Transportation Safety Board (“NTSB”), Railroad Accident Brief, Film Crew Trespassing on CSX Right-of-Way, DCA14FR005, at 2-3.

²¹ *Id.* at 3-4.

²² *Id.* at 1, 4.

²³ *Id.* at 1.

²⁴ *Id.* at 2.

²⁵ *Id.* at 6.

²⁶ See, e.g., 49 C.F.R. Part 213.

the specific location of the desired location for the work, adjacent structures' locations, track and railway structures and facilities layouts, and the horizontal and vertical clearances involved. Unfortunately, submitted applications are frequently missing significant information. In such cases, the railroad must deny the application pending additional information, an iterative process sometimes resulting in multiple resubmissions of the application. This back and forth requires significant time and resources.

It should also be noted that railroad ROWs are not uniform, and the nature and extent of a railroad's property interests vary considerably. However, while a railroad may hold fee simple title in some locations but have different rights in others (e.g. rights arising from a lease, easement, license, or some other interest less than fee simple), AGCC must recognize the special nature of railroad ROWs. As the U.S. Supreme Court has held:

A railroad's right of way has . . . the substantiality of the fee, and it is private property, even to the public, in all else but an interest and benefit in its uses. It cannot be invaded without guilt of trespass. It cannot be appropriated in whole or in part except upon the payment of compensation. In other words, it is entitled to the protection of the Constitution, and in the precise manner in which protection is given.²⁷

Accordingly, any use or occupancy of railroad property must be negotiated in light of the specific legal and operational circumstances presented.

Concierge assistance from federal experts, with specific contacts dedicated to facilitating effective coordination as proposed in the RFI, could be helpful in streamlining third party preparation of applications for ROW access. Of course, specific contract terms and agreements must be negotiated between the applicant and the railroad, and the railroad must have approval authority over any engineering plans. However, ensuring that engineering plans comply with railroad requirements prior to initial submission to the railroad would reduce the lead time involved in reviewing and approval and, eventually construction.

²⁷ *Western Union Tel. Co. v. Pennsylvania R. Co.*, 195 U.S. 540, 570 (1904).

IV. The Voluntary Nature of the Program is Essential.

Given the serious safety concerns discussed above, the railroads appreciate that the Bureau designed the program to be voluntary. As the RFI notes, “DOT intends to solicit proposals from ROW owners through an annual [request].”²⁸ This feature is common-sense, but integral to the success of the program. Both states and railroads have processes in place for safely accessing their property. Recently, because of the unique nature of linear ROWs, a number of entities have tried to force access to ROW without the owning railroad’s permission. As discussed above, and as DOT is aware, there are significant safety, operational, and property rights concerns raised by such actions. These concerns will be ameliorated by the voluntary nature of the program. AAR strongly supports this important feature and would strongly oppose a mandatory version of this program.

V. Conclusion

The Associations appreciate this opportunity to provide information on the voluntary AGCC and the safety implications its members prioritize anytime a party seeks to access our ROWs. Please contact us with any additional questions or to further discuss this response.

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²⁸ 91 Fed. Reg. at 53482.