

BEFORE THE

302712

SURFACE TRANSPORTATION BOARD

DOCKET NO. EP 282 (Sub-No. 21)

**PETITION FOR RULEMAKING—RAILROAD
CONSOLIDATION PROCEDURES—
EXEMPTION FOR EMERGENCY TEMPORARY TRACKAGE
RIGHTS**

**COMMENTS OF THE
AMERICAN SHORT LINE AND REGIONAL RAILROAD
ASSOCIATION**

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Public Record

ASLRRA is a non-profit trade association representing the interests of approximately 600 short line and regional railroad members and railroad supply company members in legislative and regulatory matters. Short lines operate 50,000 miles of track in 49 states, or approximately 30% of the national freight network, connecting manufacturers, businesses and farmers in communities and small towns to larger markets, urban centers, and ports. Our railroad members operate in 49 states and in some cases account for the state's entire rail network. Class II and III railroads play a vital role in maintaining rail service over hundreds of miles of light density lines throughout the country that in many cases were candidates for abandonment by their former Class I owners. These small railroads have short lengths of haul, high fixed costs, and large capital needs for infrastructure investment, including the task of upgrading bridges and track to handle heavier freight cars. They also face pervasive competition from trucks, barges, and transloading operations for freight traffic.

On October 9, 2020, the Association of American Railroads (AAR) filed a petition requesting that the Surface Transportation Board (Board) initiate a rulemaking proceeding to establish a new emergency temporary trackage rights class exemption that could be invoked in specific situations and would allow emergency temporary trackage

rights to take effect immediately, without need for the 30-day notice requirement under 49 C.F.R. § 1180.4(g)(1). On February 5, 2021, the Board granted a petition and on May 28, 2021, provided proposed rule text to establish a new class exemption for emergency temporary trackage rights. The Board also proposed certain other related changes to the class exemptions for trackage rights and temporary trackage rights.

The proposed rules would permit railroads to obtain temporary trackage rights exemptions under emergency conditions, such as unforeseen track outages caused by, but not limited to, natural disasters or accidents expected to last more than 7 days, with no reasonable alternative to maintain pre-outage levels of service. Currently, an exemption cannot become effective until 30 days after the railroad files a verified notice, unless the STB approves a waiver. The new rule proposes that the exemption become effective 5 days after the verified notice in which the railroads certify that the trackage rights are needed is filed with the STB. The STB also proposes that the verified notice describes the circumstances, including: (1) the nature of the event that caused the unforeseen outage; (2) the location of the outage; (3) the date that the emergency situation occurred; (4) the date that the track outage was discovered; and (5) the expected duration of the outage.

ASLRRA is supportive of the Board's proposed changes to its regulations, which will make the process of obtaining Board approval of temporary trackage agreements in emergency situations more efficient and predictable for all railroads. Further, ASLRRA agrees with the Board's assessment that the proposed class exemption for emergency temporary trackage rights would meet the requirements of 49 U.S.C. § 10502 and would advance the rail transportation policy in several ways. It would provide for the expeditious handling and resolution of proceedings, 49 U.S.C. § 10101(15), and encourage the efficient management of railroads, 49 U.S.C. § 10101(9), by making the process of obtaining temporary trackage rights in emergencies more efficient by eliminating the need for a waiver of the 30-day notice period under 49 C.F.R. § 1180.4(g)(1) and more predictable by requiring the Board to act within a set number of days. It would also promote the continuation of a sound rail system, 49 U.S.C. § 10101(4), and coordination between carriers, 49 U.S.C. § 10101(5), by facilitating the process of line repair and approval of trackage rights agreements.

ASLRRA supports the new class exemption as proposed in this Docket, which will provide a streamlined and simple approach for obtaining temporary trackage rights in emergency situations, ensuring the continued flow of commerce without any decrease in regulatory oversight.

Respectively submitted,

A handwritten signature in black ink, reading "Sarah Yurasko". The signature is written in a cursive, flowing style.

Sarah G. Yurasko
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