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U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Federal Railroad
Administration**

December 4, 2024

VIA ELECTRONIC FILING

Ms. Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. EP 775 – *Growth in the Freight Rail Industry*

Dear Ms. Brown:

Please find attached for filing in the above-referenced proceeding the comments of the United States Department of Transportation and the Federal Railroad Administration (FRA), signed by Amitabha Bose, FRA Administrator. Please contact the undersigned if there are any questions. Thank you for your attention to this matter.

Respectfully,

/s/ Katherine Bourdon

Katherine Bourdon

Attorney Adviser

Federal Railroad Administration

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Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. EP 775

GROWTH IN THE FREIGHT RAIL INDUSRY

**MOTION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND
THE FEDERAL RAILROAD ADMINISTRATION FOR LEAVE
TO FILE COMMENTS OUT-OF-TIME**

The United States Department of Transportation (DOT) and the Federal Railroad Administration (FRA), an operating administration of DOT, hereby respectfully request the Surface Transportation Board grant leave to file Comments out-of-time in Growth in the Freight Rail Industry, EP 775 (STB served July 15, 2024), in the interest of compiling a full and complete record.¹ FRA wishes to provide the attached Comments on the issues raised in the testimony and accompanying discussions at the September 16 and 17, 2024 hearing.

Respectfully,



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Administrator
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United States Department of Transportation

¹ See Association of American Railroads—Petition for Rulemaking, EP 752, slip op. at 1 n. 4 (STB served July 10, 2019) (accepting late filing in the interest “of compiling a full and complete record”).

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. EP 775

GROWTH IN THE FREIGHT RAIL INDUSTRY

**COMMENTS OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION AND
THE FEDERAL RAILROAD ADMINISTRATION**

The United States Department of Transportation (DOT) and the Federal Railroad Administration (FRA), an operating administration of DOT, submit these Comments in response to the Surface Transportation Board’s (STB or Board) recent two-day hearing on “Growth in the Freight Rail Industry” (the “Hearing”).² FRA listened to the Hearing with great interest and appreciates the STB’s efforts to understand and address growth in the freight rail industry.

I. RAIL SAFETY

FRA’s core mission is safety. FRA is focused on the improvement and advancement of safety throughout the railroad industry. FRA has finalized several rules to improve rail safety, including final rules requiring emergency escape breathing apparatuses for trains carrying hazardous materials;³ minimum safety requirements for train crew size;⁴ and two final rules ensuring that dispatchers and signal employees receive the necessary training to meet the demands of their safety-sensitive jobs.⁵ Additionally, FRA finalized a rule requiring railroads to

² Growth in the Freight Rail Industry, EP 775 (STB served July 15, 2024).

³ Emergency Escape Breathing Apparatus Standards, 89 Fed. Reg. 5,113 (January 26, 2024) (to be codified at 49 C.F.R. pt. 227).

⁴ Train Crew Size Safety Requirements, 89 Fed. Reg. 25052 (April 9, 2024) (to be codified at 49 C.F.R. pt. 218). This rule is currently the subject of litigation. See Fla. E. Coast Ry. v. FRA, No. 24-11076 (11th Cir. filed Apr. 8, 2024).

⁵ Certification of Signal Employees, 89 Fed. Reg. 44830 (May 21, 2024) (to be codified at 49 C.F.R. p. 246); Certification of Dispatchers, 89 Fed. Reg. 44766 (May 21, 2024) (to be codified at 49 C.F.R. pt. 245).

develop Fatigue Risk Management Programs in consultation with their workforce, and a formal process for FRA investigators to collaborate with stakeholders during accident investigations.⁶

Unfortunately, FRA's progress on safety has often been in spite of, rather than in collaboration with, our Class I partners. In FRA's view, in too many cases, Class I railroads object and seek delays in an effort to preserve the status quo instead of engaging with FRA and its rail workforce to advance safety. Safety must be the Class Is' number one priority. In order to build a strong and safe freight rail industry, Class I railroads must work with the FRA to continually improve safety measures.

II. INFRASTRUCTURE INVESTMENT

In addition to FRA's safety initiatives, DOT and FRA fund significant infrastructure investments aimed at improving the fluidity and growth of the passenger and freight rail networks. A number of DOT and FRA's discretionary grant programs support freight railroad industry growth, including the Consolidated Rail Infrastructure and Safety Improvements (CRISI) program.⁷

The CRISI program, which was discussed at the Hearing, provides funding for projects that improve the safety, efficiency, and reliability of intercity passenger and freight rail. Eligible recipients for CRISI funding include Class II and Class III railroads, Amtrak or other intercity passenger rail providers, and any rail carrier or rail equipment manufacturer that partners with at least one of the eligible public entities (including states, a political subdivision of a state, etc.).⁸

The CRISI program supports an array of projects, ranging from railroad infrastructure

⁶ Fatigue Risk Management Programs for Certain Passenger and Freight Railroads, 87 FR 35660 (June 13, 2022).

⁷ FRA also works with DOT on the following programs: Rebuilding American Infrastructure with Sustainability and Equity (RAISE), the Nationally Significant Multimodal Freight & Highway Projects program (INFRA), and Multimodal Projects.

⁸ For a complete list of eligible recipients and eligible projects see 49 U.S.C. § 22907.

improvements to safety and research programs to projects aimed at reducing locomotive emissions. While not directly eligible as recipients, Class I railroads often partner with state and local governments on projects that make rail infrastructure improvements beneficial to both the community and the freight railroad, such as additional track, bridge repair and replacement, and grade separating existing at-grade crossings. FRA supports such joint efforts between the Class I railroads and state and local government entities. In addition, through the CRISI program, FRA funds the Locomotive Replacement Initiative (LRI), which provides oversight and management of certain locomotive projects aimed at removing the most polluting locomotives from the rail network.

In October 2024, FRA announcement selections for over \$2.4 billion in funding for CRISI projects, which was the biggest funding round in the history of the CRISI program. FRA evaluates CRISI applications based on project readiness, technical merit and project benefits, and considers how the applicant's project aligns with the Administration priorities, as described in the Notice of Funding Opportunity. FRA encourages CRISI applicants to include quantifiable railroad data, such as information on delay, failure or safety incidents, and daily train movements along with similar metrics, in addition to qualitative data on accessibility improvements to either new or existing assets to assist FRA in its selection decisions. Ultimately, these investments provide railroads and rail stakeholders support for freight and intercity passenger rail projects, including those that may support growth in the freight rail industry. Through its financial assistance programs, FRA can support meaningful investments in freight rail infrastructure and, in doing so, will facilitate improvements to passenger and freight operations, reduce emissions, and benefit communities. FRA welcomes STB comments and collaboration to support these endeavors.

III. FREIGHT RAIL GROWTH

The witness testimony and comments offered at the Hearing addressed shipper concerns as well as data and recommendations to address lack of growth in the freight rail industry. Many witnesses expressed frustration that Class I railroads' sole focus is Wall Street performance to the detriment of both growth *and* better, safer service for rail shippers. Some asserted the need for technological advancements – ranging from the use of telematics to automated safety inspection devices – to provide greater and more accurate information to railroad employees, shippers, and stakeholders. FRA's Office of Research, Data, and Innovation manages and coordinates industry, market, and data-intelligence to harness new technologies and understand how they can improve efficiency and safety in the rail industry.

Notably, Class I railroads already have access to several technologies discussed at the Hearing but have not yet implemented them on their networks. Class I railroads should be deploying all tools available to realize growth in the rail industry and improve service. Instead, Class I railroads continue to rely on and implement strategies like Precision Scheduled Railroading, which provides short term gains for shareholders but in the long term reduces capacity and operational flexibility, and limits growth.

FRA supports the development and deployment of new technologies to improve railroad safety, but it is important that the human element of railroad safety is maintained as technology cannot replace the highly- trained, skilled, and experienced rail workforce. Technology, when deployed in *combination* with existing highly skilled employees, can advance safety and performance. Growth in the freight rail industry requires a robust, well-trained, and well-rested workforce. FRA remains committed to supporting the safety and success of railroad employees.

CONCLUSION

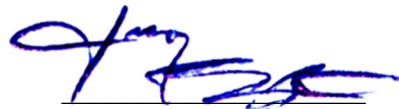
President Biden's Bipartisan Infrastructure Law made historic investments in the transportation sector: improving public safety and climate resilience, creating jobs across the country, and delivering a more equitable future. The railroad industry is already seeing the benefits of these investments all over the country. Now is the time for Class I railroads to build on infrastructure investments with a focus on growth, safety, and supporting the employees who form the backbone of the industry.

FRA and DOT appreciate the opportunity to submit comments on the Growth in the Freight Rail Industry Hearing and for the STB's consideration of our views.

December 4, 2024

Respectfully,

Subash Iyer
Acting General Counsel
Paul M. Geier
Assistant General Counsel for
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