

**Congress of the United States**  
**Washington, DC 20515**

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The Honorable Roger Nober  
Chair, Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001

FD-34662

Dear Chairman Nober:

D.C. Mayor Anthony Williams signed a D.C. Ordinance, entitled the Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005. This Act would make it illegal for trains and trucks to transport certain classes of commodities, including explosives, flammable gases, poisonous gases, or poisonous materials within a 2.2 mile "Capitol Exclusion Zone."

I urge the Surface Transportation Board (STB) to issue an order declaring that this Act is preempted by Federal statute and that, subject to compliance with applicable federal safety and hazardous materials transportation laws and regulations, CSX Transportation (CSXT) may continue to route cars covered by the D.C. Ordinance via its lines through, and in the vicinity of, the District of Columbia.

Under Section 10501(b) of Title 49 United States Code, the STB has exclusive jurisdiction over transportation by rail carriers, including rail routes and service. Moreover, the section states: "...the remedies provided under this part with respect to regulation of rail transportation [including remedies with respect to routes] are exclusive and preempt the remedies provided under Federal or State law." There is no question that, under this statute, the D.C. Ordinance constitutes an impermissible attempt to regulate rail transportation by placing a direct restriction on the movement of CSXT rail traffic through Washington, D.C. and dictating what commodities can be carried over CSXT's lines.

The D.C. Council, in passing this legislation, also circumvented the authority of the STB to issue temporary orders directing the routing of rail traffic in response to emergency situations. The D.C. Council has not sought, and the STB has not issued, any order finding that such an emergency requires CSXT to divert hazardous material shipments to lines outside D.C., or that CSXT's routing must be restricted. Had the D.C. Council sought such an order, the Council would have learned that CSXT is already voluntarily rerouting certain rail cars containing hazardous materials, and that the Transportation Security Administration is in the process of implementing a \$7 million long-term plan to improve security on the D.C. Rail Corridor.

The D.C. Ordinance would cause great inefficiencies and hardship on CSXT's rail network while creating little additional security. The immediate impact is significant: CSXT cannot simply "flip a switch" and comply with the D.C. Ordinance immediately without stopping all merchandise trains and attempting to make alternative route plans for their cars. The closest alternative routing

available to CSX would be its line running west of the Appalachian Mountains through Tennessee, Kentucky, and Ohio. The closest alternative east-west route to the north is a line that runs from Albany, New York, to Buffalo, New York, and along Lake Erie through Cleveland, Ohio. The closest alternative east-west route to the south is CSX's line from Richmond, Virginia, to Charleston, West Virginia, and points west.

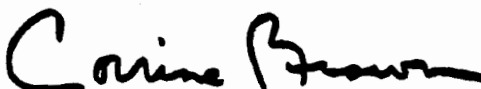
Diversion of hazardous materials to these routings would severely impair the efficiency of CSX's rail service to hazmat shippers. For example, CSX currently handles certain shipments originating in Mount Holly, NC, that are destined to Claymont, DE. Under CSX's current efficient Operating Plan, this traffic moves up the I-95 corridor via Rocky Mount, NC—Richmond, VA—Washington, D.C.—Philadelphia, PA—Stoney Creek, PA to Claymont, DE. The current route is 754 miles long. According to CSX, in order to avoid D.C., this traffic would have to move via Erwin, TN—Cincinnati, OH—Cleveland, OH—Buffalo, NY—Syracuse, NY—Albany, NY—Oak Island, NJ—Philadelphia, PA—Stoney Creek, PA to Claymont, DE. This alternative route is 1,655 miles long, or more than double the current routing.

If freight trains have to stop, Amtrak, MARC, and VRE commuters will feel the immediate impact, as these passenger trains operate over CSXT lines. Millions of commuters – many of which have no other means of transportation – rely on this service on a daily basis.

Shippers and their customers will also be impacted when critical materials stop in transit. Diversion of the shipments, for the sole purpose of avoiding D.C., would generate an additional 1.9 million car miles, and an additional 6,500 car handlings per year. The greater number of car handlings would increase the amount of "dwell time" spent in yards en route, imposing substantial additional costs on shippers and users of the commodities, and jeopardizing safety and security/

For all the forgoing reasons, I ask the STB to declare the DC Ordinance preempted by federal law.

Sincerely,



Corrine Brown  
Member of Congress

Cc: The Honorable Douglas Buttrey  
The Honorable Frank Mulvey