



*A bold voice for transportation workers*

January 6, 2020

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Highway-Rail Crossing and Trespasser Programs Division  
Office of Safety Analysis  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington DC, 20590

**RE: State Highway-Rail Grade Crossing Action Plans  
Docket No. FRA-2018-0096**

Dear Ms. Chappell,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to provide comments on the Federal Railroad Administration's (FRA) Notice of Proposed Rulemaking (NPRM) concerning Grade Crossing Action Plans. TTD consists of 33 affiliate unions, including unions representing railroad operating crews, workers who install and maintain crossing-grade signal systems, and first responders.<sup>1</sup>

Through the NPRM, the FRA proposes to implement Section 11401 of the FAST Act, which requires that each state produce a plan that identifies all highway-rail grade crossings that;

- a) have experienced recent highway-rail grade crossing accidents or incidents; or
- b) have experienced multiple highway-rail grade crossing accidents or incidents; or
- c) are at high-risk for accidents or incidents

Plans submitted by states would be required to discuss accidents and incidents, propose strategies to improve safety at those crossings, and provide an implementation timelines for such actions. FRA is then required by statute to review these plans within 60 days. This includes new plans submitted by 40 states and the District of Columbia, and updated plans filed by the 10 states who were previously required to create plans by Rail Safety Improvement Act of 2008.

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<sup>1</sup> Attached is a list of TTD's 33 affiliated unions.



TTD was strongly supportive of the inclusion of this provision in the FAST Act, is generally supportive of the NPRM, and is pleased that FRA is taking action on statutorily required safety mandates. Accidents at grade crossings present substantial risk to the public and railroad employees. Between 1981 and 2008 substantial efforts by rail workers, the FRA, and carriers resulted in a 75% drop in accidents at grade crossings (9,461 in 1981, 2,429 in 2008). However, despite additional efforts and attention, further reducing or eliminating these accidents has proven difficult. FRA data shows almost no improvement in accidents or fatalities in the 10-year period between 2008 and 2018.<sup>2</sup>

By requiring states to identify grade-crossings where accidents have, or are likely to occur, and mitigate these risks, the NPRM offers a valuable path to further progress in reducing accidents. TTD and our rail unions look forward to these plans taking effect.

In the NPRM, FRA states that it has decided against proposing an official definition or interpretation of the phrase “at high risk for accidents or incidents”. FRA writes that this would give States the authority to create their own definition for a high risk crossing. The inclusion of high-risk crossings in State plans, even without an accident or incident, is an important component to the utility of the program, as States would be required to address grade crossing safety proactively.

However, we are concerned that by not establishing a regulatory definition or guidance, the NPRM provides too much flexibility to states. As proposed, a State could craft a definition that ultimately only requires it to address crossings where an accident has taken place, even though that would be inconsistent with the spirit of the statute. Given that the accident rate has been mired in a 10-year period of stasis, it clear that more ambitious mitigation policies are required.

For example, when FRA and NJ Transit partnered on a report which analyzed the usefulness of gate skirts, it selected a high risk grade crossing based on characteristics of that crossing, particularly the volume of foot traffic near time-sensitive events like a train approach.<sup>3</sup> FRA could simply require that States consider the most densely trafficked grade crossings as high risk, as increased pedestrian volume may increase the opportunities for an accident.

Alternatively, FRA could make use of grade crossing data it already collects, or expand such collections to inform high-risk determinations. As discussed in 49 CFR 222, Appendix D, FRA and DOT already operate the Nationwide Significant Risk Threshold, the Crossing Corridor Risk Index, and the Quiet Zone Risk Index as measures of collision risk at public highway-rail grade crossings. The associated prediction formulas were developed specifically “as a guide for allocating scarce traffic safety budgets at the State level”. These formulas predict collisions and the severity of such collisions based on the following seven factors:

- average annual daily traffic
- total number of trains per day
- number of highway lanes

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<sup>2</sup> All Highway-Rail Incidents at Public and Private Crossings, 1981-2018, Federal Railroad Administration Office of Safety Analysis.

<sup>3</sup> Effect of Gate Skirts on Pedestrian Behavior at Highway-Rail Grade Crossings, 2003.

- number of main tracks
- maximum timetable train speed
- whether the highway is paved or not
- number of through trains per day during daylight hours

These factors speak to many of the conditions that make a crossing high risk, and any State plan should address similar conditions. We urge FRA to use its substantial pool of data and research on grade crossings risks to provide more clarity and structure to states on the definition of high-risk. FRA can do this most effectively by adapting existing indexes or tenets from these formulas in a codified definition. If FRA is unwilling to offer a definition, we strongly urge the agency to use these tools to provide comprehensive guidance to states on the data the state should consider and include in Plans. Finally, we call on FRA to reject any State's plan that does not proactively address high-risk grade crossings where an accident has not yet taken place.

TTD commends the FRA for the publication of this NPRM and looks forward to working with the agency on this rule and other efforts to improve grade crossing safety.

Sincerely,



Larry I. Willis  
President