

September 2, 2025

Kyle D. Fields
Chief Counsel
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Administrative Updates to the Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices and Regulations
Docket No. FRA-2025-0099

Mr. Fields:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) final rule regarding administrative updates to its brake system safety standards. TTD consists of 39 affiliate unions representing workers in all modes of transportation, including rail workers who will be affected by this rule.¹ We strongly oppose the updates promulgated by this final rule as they go beyond the scope of the good cause exception permitted by the Administrative Procedure Act (APA). We therefore request that the FRA immediately repeal this final rule. In addition, we endorse the comments filed in this docket by our affiliates, the Brotherhood of Locomotive Engineers and Trainmen (BLET).

On July 1, 2025, the FRA published a final rule in this docket without abiding by the standard APA-defined process of notice and comment required for substantive rulemakings. The agency has claimed an exception under the good cause exception of the APA, specifically 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(b)(B), stating that "...this final rule merely makes miscellaneous, administrative updates to the CFR, such as updating web addresses, it would not benefit from public comment, and notice and comment is not necessary."

TTD objects to this interpretation and hereby petitions for repeal of this rule under 5 U.S.C. 553(e).

Earlier this year, TTD expressed our concerns regarding the repeal and modification of regulations outside of the normal regulatory processes in our response to the Department of Transportation's request for information regarding regulatory reform.² We must reiterate that federal safety regulations should be repealed, revoked, or modified only through the full notice and comment process in accordance with the APA. In general, the APA requires published notice and opportunity for comment for most rulemakings, including for the repeal and substantive modification of regulations. 5 U.S.C. 553(b)(B) exempts a proceeding from these requirements "when

¹ Attached is a complete list of the unions affiliated with TTD.

² <https://ttd.org/policy/federal-comments/transportation-labor-urges-dot-to-maintain-safety-regulations/>

the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” The changes made by this final rule are beyond the scope of this exemption as they redelegate authority from the Associate Administrator for Railroad Safety to the Staff Director of the Motive Power and Equipment (MP&E) Division.

This rule, by shifting authority to a lower-level office, reduces institutional oversight and increases the likelihood of industry-friendly decisions made at the expense of safety. This is not a ministerial or minor change. The reorganization facilitated by this rule will make it easier for railroads to submit requests and receive rubber-stamped approvals. The MP&E division in particular has facilitated waiver approvals and has a tendency to side with industry on safety matters. Given this clear safety concern and substantive change to the existing regulation, it is in the public interest for the FRA to initiate a formal notice and comment period with regard to the changes made by this rule.

Federal courts generally agree that the good cause exception is to be "narrowly construed."³ As such, federal agencies, including the FRA, are responsible for convincing a court that good cause exists, and the exception is not to be used as an "escape clause" to avoid rulemaking procedures when convenient for the agency.⁴ In this case, the Administration's eagerness to modify and cut back on this country's hard-won regulations clearly does not constitute good cause.

Safety regulations exist for a reason, and stakeholders and the public must be permitted to fully assess the costs of repealing the regulations that were put in place to protect their communities. Rail workers in particular, many of whom have direct experience with the tragedies that have precipitated so many of the FRA's safety regulations, must be allowed to examine and subsequently provide meaningful comments in response to attempts to modify and substantively change these regulations.

We appreciate the FRA taking these comments into consideration and look forward to working with the agency in the future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Greg Regan", enclosed within a circular stamp or seal.

Greg Regan
President

³ See *Mack Trucks, Inc. v. E.P.A.*, 682 F.3d 87, 93 (D.C. Cir. 2012)

⁴ See *Arapahoe Tribe v. Hodel*, 808 F.2d 741, 751 (10th Cir. 1987)