



*A bold voice for transportation workers*

September 4, 2020

Mr. John Karl Alexy  
Associate Administrator for Railroad Safety, Chief Safety Officer  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

**RE: American Public Transportation Association Petition for Waiver of Compliance  
Docket No. FRA-2020-0060**

Dear Mr. Alexy,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's request for comment on a petition for a waiver of compliance filed by the American Public Transportation Association (APTA). TTD consists of 33 affiliate unions representing workers in all modes of transportation, including employees of APTA member railroads. We therefore have a vested interest in this petition.

The proposed waiver would renew previously granted relief regarding supervision of track inspections, continuous welded rail plans, training requirements, records maintenance, dispatcher hours of service, crew hours of service, brake testing, and emergency simulations. Additionally, the waiver requests relief from certain drug and alcohol testing requirements that have not previously been granted. Unlike other waivers granted to rail employers due to COVID-19, APTA has chosen not to submit this request in FRA's Emergency Relief Docket (ERD) which requires that petitioners request waiver renewals every 60 days, and justify the renewal based on the present emergency condition. Instead, APTA requests that FRA provide it COVID-19 related regulatory relief for a full year.

TTD opposes this waiver because it requests exemption from important safety rules and would allow APTA members to implement the relief at their sole discretion. Additionally, by not applying through the established ERD, the petition would circumvent oversight of the usage or need for the relief. TTD has previously opposed a pending waiver from the Long Island Rail Road for similar reasons. If APTA or another petitioner requires relief due to circumstances relating to the pandemic, such as reduced manpower or social distancing requirements, then it should avail itself of the relief docket explicitly set up for this purpose. If a petitioner is seeking broader regulatory relief, then it should do so in the standard docket and justify safety arguments for the waiver in compliance with statute without regard to COVID-19.

**Transportation Trades Department, AFL-CIO**

815 16<sup>th</sup> Street NW / 4<sup>th</sup> Floor / Washington DC 20006  
Tel: 202.628.9262 / Fax: 202.628.0391 / [www.ttd.org](http://www.ttd.org)  
Larry I. Willis, President / Greg Regan, Secretary-Treasurer

However, the petition does not provide additional justification that the waiver is necessary beyond addressing COVID-19 related reduced staffing and social distancing. The petition states that due to “the changing dynamics of the pandemic, our member railroads continuously review safe practices” acknowledging that ongoing review is necessary. We concur, but we believe that ongoing reviews of COVID-19 relief are firmly the responsibility of the FRA and not the regulated entity. The petition also states that APTA members have only used a “very small portion” of relief that has already been granted, but states that “some of the relief granted not currently being used may be necessary in the future.” We argue that if additional relief becomes necessary in the future, APTA should request and justify that relief at that time. Permitting covered employers to waive in and out of numerous regulations over the course of a year would grant APTA members too much leeway in implementing safety rules without ensuring that the implementation of additional relief maintains safety standards, or is even necessary. FRA should not abdicate responsibility and allow this burden of review to fall solely to the regulated entity, particularly given the safety critical nature of a number of the impacted regulations.

The frontline workers represented by TTD unions are intimately familiar with the dangers of operating during the COVID-19 pandemic. We understand the need to enable social distancing during the COVID-19 crisis, and we support regulatory relief being granted in a measured, responsible way with necessary restrictions and time limitations. This petition has attempted to avoid those critical safeguards and we call on FRA to reject the petition because it would unnecessarily compromise the safety of rail employees and passengers.

We thank FRA for the opportunity to comment on this petition and look forward to working with the administration on rail safety issues going forward.

Sincerely,

A handwritten signature in black ink that reads "Larry I. Willis". The signature is written in a cursive, flowing style.

Larry I. Willis  
President



Transportation Trades Department, AFL-CIO  
*A bold voice for transportation workers*

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***TTD MEMBER UNIONS***

Air Line Pilots Association (ALPA)  
Amalgamated Transit Union (ATU)  
American Federation of Government Employees (AFGE)  
American Federation of State, County and Municipal Employees (AFSCME)  
American Federation of Teachers (AFT)  
Association of Flight Attendants-CWA (AFA-CWA)  
American Train Dispatchers Association (ATDA)  
Brotherhood of Railroad Signalmen (BRS)  
Communications Workers of America (CWA)  
International Association of Fire Fighters (IAFF)  
International Association of Machinists and Aerospace Workers (IAM)  
International Brotherhood of Boilermakers, Iron Ship Builders,  
Blacksmiths, Forgers and Helpers (IBB)  
International Brotherhood of Electrical Workers (IBEW)  
International Longshoremen's Association (ILA)  
International Organization of Masters, Mates & Pilots (MM&P)  
International Union of Operating Engineers (IUOE)  
Laborers' International Union of North America (LIUNA)  
Marine Engineers' Beneficial Association (MEBA)  
National Air Traffic Controllers Association (NATCA)  
National Association of Letter Carriers (NALC)  
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)  
National Federation of Public and Private Employees (NFOPAPE)  
Office and Professional Employees International Union (OPEIU)  
Professional Aviation Safety Specialists (PASS)  
Sailors' Union of the Pacific (SUP)  
Sheet Metal, Air, Rail and Transportation Workers (SMART)  
SMART-Transportation Division  
Transportation Communications Union/ IAM (TCU)  
Transport Workers Union of America (TWU)  
**UNITE HERE!**  
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)  
United Mine Workers of America (UMWA)  
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service  
Workers International Union (USW)

*These 33 labor organizations are members of and represented by the TTD*

