RAIL PASSENGERS ASSOCIATION

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202- 408-8362

July 9, 2025

Mr. Karl Alexy
Associate Administrator, Office of Safety
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington D.C. 20590

Re: FRA Docket # 2025-0059

Dear Mr. Alexy:

As the leading passenger rail advocacy organization in the United States with more than 127,000 members, donors, and supporters — and on behalf of the more than 40 million Amtrak, commuter, and transit passengers that we collectively represent — the Rail Passengers Association is writing to express our concerns about a rail safety matter with the potential to risk the safety of passenger trains and rail passengers.

Rail Passengers writes in opposition to the safety waiver requested by the Association of American Railroads (AAR) on behalf of its Class I railroad members, which calls for up to a 75% decrease in the visual track inspections required under Part 213.233, title 49 Code of Federal Regulations, from twice per week to twice per month.[1]

Although we strongly support more widespread adoption of automated track inspection technology, there are categories of defects that this technology fails to detect, and under this waiver not only would those defects potentially go unnoticed, but even detected faults could go three days without remediation –- well beyond the immediate remediation on the books today.

Most U.S. intercity passenger trains operate over freight railroad tracks, and 71% of the miles traveled by Amtrak trains are on tracks owned by host railroads.[2] For this reason, the safety of operations over freight railroad tracks is of great importance to America's passengers. *Rail Passengers* has been consistently engaged in efforts to improve rail safety through entities like the FRA's Railroad Safety Advisory Committee (RSAC), where our Association has advocated for the adoption of everything from the Tier III railcar standard to programs like the Confidential Close Call Reporting System, or C3RS, across the industry.

[1] Accessible at https://www.regulations.gov/document/FRA-2025-0059-0001
[2] https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/nationalfactsheets/Amtrak-Company-Profile-FY2024-032425.pdf

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Rail Passengers is concerned that, if granted, this waiver would significantly decrease rail safety for passenger trains and rail passengers, putting them at greater risk of derailment — and could lead to serious injuries or even deaths. Because this requested waiver is not in the public interest and is not consistent with railroad safety, as required by federal statute,[3] we urge the Federal Railroad Administration (FRA) to deny the waiver request.

The FRA currently requires railroads to visually inspect their tracks up to twice a week for 23 types of track defects that could lead to a train derailment, and human track inspectors additionally look for four more types of track defects.[4] These inspections are vital to detecting track defects that could cause a passenger train to derail or malfunction. Track defects are a leading cause of train derailments,[5] with FRA data showing that track infrastructure failures are responsible for 52% of all derailments. Human track inspectors are required to examine the track across a variety of categories, looking for a broken rail, track gauge issues, drainage issues, and track washouts, just to name a few. If a human inspector finds an issue, the issue must be rectified immediately.

This precise situation happened to an Amtrak passenger train a few years ago in Joplin, Montana. According to the National Transportation Safety Board (NTSB):

> On September 25, 2021, Amtrak's Passenger Train 7, the *Empire Builder*, a passenger train carrying 165 passengers and crewmembers, traveling on track owned and maintained by BNSF Railway, derailed near Joplin, Montana. Three passengers were killed and 49 people were injured. The train consisted of 2 locomotives and 10 railcars. Of the eight passenger railcars that derailed, four derailed on their sides, one derailed leaning, and three derailed upright.
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> The derailment occurred because of a combination of conditions that affected the BNSF Railway track. These conditions included worn rail, vertical track deflection at a four-bolt rail joint, subgrade instability, and track misalignment. Also, we found that had a locomotive equipped with an existing automated vehicle/track interaction monitoring system traveled the derailment curve on the day of the derailment, the deteriorating track conditions could have been identified, and BNSF Railway could have been notified, giving it the opportunity to take action to mitigate the dangers of the misaligned track." [6]

[3] 49 U.S.C. 20103(d)
[4] 49 CFR Part 213
[5] https://railtec.illinois.edu/wp/wp-content/uploads/2019/02/Liu-et-al-2012.pdf
[6] https://www.ntsb.gov/investigations/Pages/RRD21MR017.aspx#:~:text=What%20We%20Found&text=%E2%80%8BThe%20derailment%20occurred%20because,subgrade%20instability%2C%20and%20track%20misalignment

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Following the Norfolk Southern train derailment in East Palestine, Ohio on February 3rd, 2023 — which devastated East Palestine and the surrounding communities — there has been a bipartisan consensus in this country about the need for both Congress and the Executive Branch to look at ways to improve rail safety. No community should have to go through what East Palestine has gone through; sadly, there are dozens of communities still dealing with the aftermath of other serious derailments, including Graniteville, South Carolina and Livingston, Louisiana.[7]

Track Geometry Measurement Systems (TGMS), also known as Automated Track Inspection (ATI), use technology that's been around since the 1970s. ATI is a measurement tool that's very effective at identifying a very specific type of track defect: track geometry defects. Indeed, this technology can find certain geometry defects that a human eye cannot detect. However, ATI cannot look at other types of track defects that a human track inspector can detect, including broken rails, drainage issues, or washouts. ATI can only detect around a quarter of the track defects a human track inspector can find; therefore, we do not believe this technology is currently capable of replacing human track inspections.

We strongly support deployment of ATIs and are encouraged that U.S. railroads (including Amtrak) currently utilize them in the field. However, we believe maximizing rail safety requires that ATI be used *in addition* to the current baseline of visual track inspections.

This approach echoes statements made by the NTSB, which argued in its analysis of the Joplin derailment:

> For example, automated track inspections by geometry cars or railcar-attached devices provide detailed information on specific track parameters, but they do not capture the diverse array of unique track hazards detectable to human inspectors. They are intended **to supplement an inspection program and should not be used to supplant an inspector physically examining a track**[8] [emphasis added].

One of the most troubling aspects of the AAR's waiver request is its proposal to permit up to 72 hours for field verification or remedial action following the identification of a track defect by TGMS. This represents a dangerous departure from current regulatory practice, which prioritizes immediate response upon detection of conditions that could compromise track safety.

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[7] https://www.firehouse.com/rescue/hazardous-materials/article/12398893/livingston-la-train-derailment36-years-later-hazmat-studies-robert-burke

[8] National Transportation Safety Board Final Report of September 2021 Joplin, Montana BNSF Derailment. "Derailment of Amtrak Passenger Passenger Train 7 on BNSF Railway Track". Published July 5th, 2023. Accessible at https://www.ntsb.gov/investigations/AccidentReports/Reports/RIR2308.pdf

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AAR's request would leave passenger trains potentially running over defective track for three full days. AAR has presented no data in its petition that ATI can safely replace visual track inspection across all the categories that human inspectors are asked to evaluate. Therefore, we do not believe that AAR's petition meets the criteria in Federal law for granting a safety waiver.

For these reasons, and on behalf of millions of Americans who travel along these rail corridors, we urge the FRA deny AAR's waiver request.

Thank you for your attention to this matter.

Sincerely,

Jim Mathews
President & CEO
Rail Passengers Association