



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY (360) 586-8203

Jan. 6, 2020

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey AVE SE, W12-140
Washington, D.C. 20590

**RE: Docket Name: State Highway-Rail Grade Crossing Action Plans NPRM
Docket No. FRA-2018-0096,
Regulatory ID Number RIN No. 2130-AC72**

Thank you for the opportunity to comment on the State Highway-Rail Grade Crossing Action Plans Notice of Proposed Rulemaking (NPRM). As the state regulatory agency responsible for highway-rail grade crossing safety in Washington, the UTC will act as lead agency in the development of the State Action Plan (SAP). The UTC will coordinate with the Washington State Department of Transportation (WSDOT), the state highway agency required to complete the Washington State Rail Plan¹ and the state Strategic Highway Safety Plan (SHSP). WSDOT also administers Railway-Highway Crossings (Section 130) Program funds for the state.

Staff of the UTC supports the comments submitted in this docket by the Departments of Transportation in Idaho, Montana, North Dakota, South Dakota, Wyoming, Vermont, and Oregon. UTC staff agrees with the states' recommendation to develop a simple, straightforward, flexible plan to control administrative costs and preparation time. Especially for Washington, because this effort will require the coordination and cooperation of two state agencies, SAP simplicity and flexibility are key. Simple plans will result in less time and fewer resources being spent to develop planning documents, resulting in more time and resources being spent on projects, and ultimately leading to improved safety.

¹ 49 CFR Part 266.15.

UTC staff also recommends the final rule allow states the option to coordinate, integrate, or incorporate the highway-rail crossing action plans with other plans, such as the SHSP, the State Transportation Improvement Program, or other similar plans. The NPRM does not appear to contemplate states where the grade crossing safety regulatory function and the state highway function are housed in separate agencies. This will require a completely different level of effort and coordination to develop the SAP than in agencies where these functions are co-located.

UTC staff agrees with commenters that the rule should build in flexibility as to the description of actions to be taken in the plan. State highway-rail crossing project selection should not be restricted solely by the plan, because safety, feasibility, engineering judgement, and other factors must also be considered. A state should be able to submit a list of the types of projects to be addressed and emphasized (e.g., crossing closures, grade separations), instead of a specific list of specific projects.

UTC staff disagrees with the conditioning of highway-rail crossing funding or grants on having an approved SAP. This is a risky approach and may inhibit important safety improvements that save lives and reduce collisions. The rule should specify that plans and projects will only be considered deficient if they are inconsistent with statutory requirements. Modest deficiencies in paperwork requirements should not prohibit funding of safety grants. FRA should consider safety first; penalties and other restrictions should be secondary.

UTC staff agrees with commenters that the rule should allow states to request a time extension to correct deficiencies in their SAP if additional time is needed. The proposed rule's 60-day time frame for correcting plan deficiencies may be adequate if planning requirements are kept simple and deficiencies are few. However, the rule should allow states to request an extension of time to correct deficiencies if substantial time to address them is required. UTC staff also recommends that state submissions be staggered with higher accident locations submitting first.

Thank you for the opportunity to comment. If you have questions, please contact Betty Young, UTC Rail Safety Program Advisor, at betty.young@utc.wa.gov, or (360) 664-1202.

Sincerely,



Mark L. Johnson
Executive Director and Secretary

cc: Jason Biggs, WSDOT