

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Chapter II and Part 209**

[FRA Docket No. FRA-1999-5685, Notice No. 5]

RIN 2130-AB33

Proposed Joint Statement of Agency Policy Concerning Shared Use of the General Railroad System by Conventional Railroads and Light Rail Transit Systems; Proposed Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Operations**AGENCY:** Federal Railroad Administration (FRA), Federal Transit Administration (FTA), DOT.**ACTION:** Extension of comment period.

SUMMARY: By notice of a proposed policy statement (Notice No. 1) published on May 25, 1999 (64 FR 28238), FRA and FTA proposed how they intend to coordinate use of their respective safety authority to address safety issues related to light rail transit operations that take place, or are planned to take place, on the general railroad system of transportation. The proposal also summarized how the process of obtaining waivers of FRA's safety regulations may work, particularly where the light rail and conventional rail operations occur at different times of day. In that notice, the deadline for the submission of written comments was July 30, 1999. By notice published on July 28, 1999 (64 FR 40931), the deadline for the submission of written comments was extended until October 29, 1999, and by notice published on October 28, 1999 (64 FR 58124), the deadline was extended once again until January 14, 2000.

By notice of a proposed rule and policy statement published on November 1, 1999 (64 FR 59046), FRA described the extent of its statutory jurisdiction over railroad passenger operations and explained how it would exercise that jurisdiction. The proposal also explained FRA's waiver process and discussed factors that should be addressed in any petition submitted by light rail operators and other railroads seeking approval of shared use of the general railroad system. In that notice, FRA established a deadline for the submission of written comments of January 14, 2000, thereby permitting the comment period for FRA's proposed

statement to coincide with the extended comment period for the proposed joint FRA/FTA statement.

In response to a request from the association representing the transit industry for an extension of the comment period for FRA's statement, and to ensure that all interested parties have a sufficient amount of time to fully develop their comments, this document announces an extension of the deadline for the submission of written comments on both statements.

DATES: Written comments must be received by February 14, 2000. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: Procedures for written comments: Submit one copy to the Department of Transportation Central Docket Management Facility located in room PL-401 at the Plaza level of the Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. All docket material on the proposed statement will be available for inspection at this address and on the Internet at <http://dms.dot.gov>. (Docket hours at the Nassif Building are Monday-Friday, 10 a.m. to 5 p.m., excluding Federal holidays.) Persons desiring notification that their comments have been received should submit a stamped, self-addressed postcard with their comments. The postcard will be returned to the addressee with a notation of the date on which the comments were received.

FOR FURTHER INFORMATION CONTACT: Gregory B. McBride, Deputy Chief Counsel, FTA, TCC-2, Room 9316, 400 Seventh Street, SW, Washington, DC 20590 (telephone: (202) 366-4063); and Daniel C. Smith, Assistant Chief Counsel for Safety, FRA, RCC-10, 1120 Vermont Avenue, NW, Mail Stop 10, Washington, DC 20590 (telephone: (202) 493-6029).

SUPPLEMENTARY INFORMATION: In the proposed joint policy statement issued on May 25, 1999 by FRA and FTA, the agencies explained that the proposal is intended to delineate the nature of the most important safety issues related to shared use of the general railroad system by convention and rail transit equipment and summarize the application of FRA safety rules to such shared-use operations. The proposal will help transit authorities, railroads, and other interested parties understand how the respective safety programs of the two agencies will be coordinated. On November 1, 1999, FRA issued a

proposed rule and its own proposed statement of agency policy concerning its safety jurisdiction over railroad operations, which discussed the extent and exercise of FRA's jurisdiction, provided guidance on which of FRA's safety rules are likely to apply in particular operational situations, and summarized how the process of obtaining waivers of FRA's safety regulations may work. The expectation of the two agencies was that commenters would then have the ability to study and analyze both statements before January 14, 2000, the deadline for submission of written comments.

In a letter dated December 10, 1999, the American Public Transit Association (APTA) (writing on behalf of its 1,270 member organizations) requested that FRA grant a 30-day extension to the comment period for FRA's proposed statement. In making its request, APTA indicated that on January 11, 2000 it will be convening a "large, diverse gathering of the transit industry to discuss the proposed policy statement," and noted that a comment period extension will provide it with the necessary time in which to complete the comment process.

FRA does not wish to inhibit the ability of any person to fully develop its comments and seeks to provide sufficient time for all interested persons to gather information. Consequently, FRA believes it is in the best interest of all persons involved to extend the period for the submission of written comments on its proposed rule and policy statement until February 14, 2000. Although APTA did not request an extension of the comment deadline for the proposed joint FRA/FTA statement, the agencies are extending the comment deadline for both proposed statements until February 14, 2000 to allow commenters to focus on Notices No. 1 and 4 without the need to file duplicative comments. FRA and FTA do not anticipate any further extension of the comment period in this proceeding. The two agencies will consider comments submitted after February 14, 2000, only to the extent possible without causing additional expense or delay.

Issued in Washington, DC, on January 6, 2000.

Jolene M. Molitoris,

Federal Railroad Administrator.

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