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KEYSTONE STATE RAILROAD ASSOCIATION

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September 29, 2014

RAILROAD MEMBERS

- Buffalo & Pittsburgh Railroad, Inc.
- Canadian National
- Canadian Pacific
- Central New York
- Chestnut Ridge (Horsehead Corp)
- Consolidated Rail Corporation (CONRAIL)
- Delaware Lackawanna Railroad
- The Everett Railroad Company
- Lehigh Valley Rail Management, LLC
- Norfolk Southern Corporation
- North Shore Railroad
- Oil Creek & Titusville Lines, Inc.
- Pennsylvania Northeast Railroad Authority
- The Philadelphia Belt Line Railroad Company
- Pittsburgh & Ohio Central Railroad
- Reading Blue Mountain & Northern Railroad
- RJ Corman Railroad
- SEDA-COG Joint Rail Authority
- SMS Rail Lines
- Wellsboro & Corning Railroad Company
- Western New York & Pennsylvania Railroad
- Wheeling & Lake Erie Railroad

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- Alfred Benesch & Company
- ArcelorMittal
- Atlantic Track
- Atlas Railroad Construction, LLC
- Burns White, LLC
- Clough, Harbour & Associates LLP
- CR Construction Company
- Dawood Engineering, Inc.
- Finkbeiner & Associates, Inc.
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- HDR, Inc
- Hulcher Services Inc.
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- McCarthy Rail Insurance Managers
- National Railroad Safety Services, Inc.
- Nauman, Smith, Shissler & Hall, LLP.
- Omega Rail Management
- Orgo-Thermit, Inc.
- Pion, Nerone, Girman, Winslow & Smith, P.C
- Port of Pittsburgh
- Railroad Constructors, Inc.
- Stone Consulting Inc.

VIA EMAIL - tfauver@pa.gov

Mr. Toby L. Fauver, AICP
 Deputy Secretary of Multimodal Transportation
 Pennsylvania Department of Transportation
 400 North Street, 8th Floor
 P.O. Box 3643
 Harrisburg, PA 17105-3643

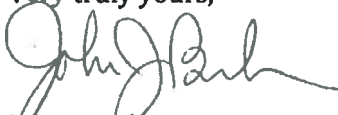
Dear Deputy Secretary Fauver:

On behalf of the Keystone State Railroad Association (KSRRA), please see attached comments to the Pennsylvania Department of Transportation's Proposed Rulemaking [67 PA. CODE CH. 511] with respect to Rail Freight Grants. We appreciate the opportunity to comment and are hopeful KSRRA's comments and suggestions will be incorporated into the Bureau's final version of 67 PA. CODE CH. 511.

The RFAP and Rail TAP programs have demonstrated how government and the private sector can work together to achieve a shared goal. The Bureau has long been our partner in this endeavor, and we are very much appreciative of the hard work you and your team do year in and year out administering the funding awards. Over the years, the RFAP and Rail TAP programs have helped to save and revitalize an important piece of Pennsylvania's transportation infrastructure, our rail freight network. The new annual, dedicated Multimodal Fund passed in Act 89 will only improve the rail freight network even further.

We appreciate the opportunity to comment and continue this discussion as the Bureau of Rail Freight moves forward in a collaborative effort that benefits the Bureau and KSRRA members.

Very truly yours,



John Bureh
 Deputy Executive Director
 717.234.5424

Attachment

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Keystone State Railroad Association
Comments on Proposed Rulemaking
Department of Transportation
[67 PA. CODE CH. 511] – Rail Freight Grants

Section 511.2 - Definitions - Maintenance Project - A project wherein maintenance or accelerated maintenance under section 3 of the Rail Freight Preservation and Improvement Act (55 P.S. 696.3) is performed, including the replacing of ties and other track and structural materials in quantities sufficient to restore a railroad line to the level necessary for compliance with Federal Railroad Administration Class I Track Safety Standards.

Suggestion: Change wording to add underlined text as shown below.

Maintenance Project - A project wherein maintenance or accelerated maintenance under section 3 of the Rail Freight Preservation and Improvement Act (55 P.S. 696.3) is performed, including the replacing of ties and other track and structural materials in quantities sufficient to restore a railroad line to the level necessary for safe and efficient operation but not less than that required for compliance with Federal Railroad Administration Class I Track Safety Standards.

Suggestion: 511.3 and other relevant sections should mirror the above language.

Comment: As worded, the regulation limits maintenance funding for projects to FRA Class I track standards. These are minimum standards that mandate a 10 m.p.h. speed on the track. Most short lines endeavor to maintain track to Class II or Class III standards for greater safety and efficiency. The language as proposed by the Bureau would greatly limit the number of projects eligible for RFAP funding.

Section 511.4 (a) – Limits of funding sets forth various Commonwealth funding constraints on both RFAP and Rail TAP grants. Specifically of interest is the sentence that reads “The section also makes clear that funding will be subject to approval and appropriations by the General Assembly.”

With passage of Act 89 in 2013, KSRRRA understood RFAP funding was now dedicated, annual funding folded into the multimodal fund. RFAP funding would no longer require approval and appropriation by the General Assembly.

Suggestion: Wording for Section 511.4 (a) should read “*Approval and appropriation*. Funding for Rail Tap projects under this chapter is subject to approval and appropriation by the General

Assembly. Funding for RFAP is dedicated annual funding allocated in the rail portion of Act 89's multimodal fund."

Section 511.4 (c)(1) – The RFAP section states "(1) RFAP maximum Commonwealth contribution will be published annually in the *Pennsylvania Bulletin* in January." PennDOT Bureau of Rail explained this as being the new construction limits for RFAP funding would be published annually in the *Pennsylvania Bulletin*. That being the case, the wording of Section 511.4 (c)(1) should be changed to reflect "new construction" limits.

Suggestion: Wording for Section 511.4 (c)(1) should read "RFAP maximum Commonwealth contribution relating to new construction will be published annually in the *Pennsylvania Bulletin* in January."

Section 511.4 (c)(2) and (d)(4) - Limits of funding. These paragraphs should be eliminated entirely.

Comment: The referenced paragraphs limit funding for grade crossing repair to 15% of the total grant amount. This makes no sense. If the railroad demonstrates a need for grade crossing work, it should be eligible without restriction. Under 511.8 - Grant Selection process and criteria - paragraph (a)(3)(ii), improving public safety is one of the stated goals and objectives of the RFAP and Rail TAP programs. Clearly grade crossings are a major public safety issue for railroads, as well as an enormous maintenance liability. KSRRRA understands the Bureau would prefer that railroads use federal section 130 monies for crossing work, but section 130 monies are often not available. Forcing the railroad to take money out of other track maintenance projects to fund crossing work only increases the applicant's funding needs in those other areas.

Section 511.8 (a) – Spelling correction – change the word objection to objectives.