



Board Agenda Item 5

DATE: August 24, 2021

TO: Board of Supervisors

SUBMITTED BY: Steve Brandau, District 2
Buddy Mendes, District 4

SUBJECT: Letter of Concern regarding STB Proposed Railroad Access Regulations

RECOMMENDED ACTION(S):

Authorize the Board of Supervisors to sign a Letter of Concern to Federal Delegation regarding U.S. Surface Transportation Board's proposed railroad access regulations.

ALTERNATIVE ACTION(S):

The Board may decline to comment on the U.S. Surface Transportation Board's (STB) proposed regulations, or the Board may direct staff to draft a letter with a different position.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

DISCUSSION:

On July 9, 2021, President Biden signed the "Executive Order on Promoting Competition in the American Economy" (Order), an expansive order containing 72 different initiatives to be administrated by more than a dozen different Federal agencies. The Order will have impacts across large sections of the American economy.

One of the initiatives directs the STB to develop regulations aimed at providing "vigilant oversight over market participants", "reducing monopolization" and providing "accessible remedies for shippers." [1] Freight railroads are an integral component of the US transportation network with 28% of all commodities, including energy, and consumer goods moved via rail. [2] The implications of the proposed rules currently under review by STB will impact the efficiency, safety, and cleanliness of the entire transportation network.

In Fresno County, BNSF, UPRR, and SJVR move thousands of tons of freight across the state and nation, with UPRR further providing vital corridor services for Amtrak. In addition, Fresno County is a potential site for inland port access, critical infrastructure for future economic growth across the region. The STB's proposed regulations will have an impact upon Fresno County's rail facilities and the industries that rely upon them for their commerce.

In 1980 Congress enacted the Staggers Act, legislation aimed at deregulating the then struggling rail industry that had been stymied by Federal bureaucracy and red tape that interfered with even the most basic of everyday rail operations. Through the 1970's this overregulation was leading to declining freight by rail due to

skyrocketing freight costs, crumbling infrastructure, and numerous preventable accidents. The Staggers Act allowed consolidation and mergers of rail companies, as well as enabling industry self-regulation. In the 40 years since the passage of the Staggers Act, US freight rail has become the world leader in freight transportation; it is more efficient, safer, and cleaner than before and leads the world in technology and innovation.[2]

The Order and STB proposed rules are creating a great amount of concern in the shipping industry as well as among transportation leaders and government officials across the nation. The Order through its broad direction could undermine progress made under the Staggers Act and could set back freight railroad operations at a time when more capacity is needed the effects will ripple through the entire transportation network. Recently, hundreds of policy and elected leaders, including the National Association of Counties (NACo), sent a letter to US Transportation Secretary Buttigieg and the STB expressing their concerns for this rule making.

Supervisors Brandau and Mendes recently met with policy experts from GoRail, an advocacy group who works with rail companies and policy leaders to influence rail policy. They are asking that Fresno County join these other agencies in expressing concerns to our elected Congressional representatives, seeking their engagement during the rulemaking to ensure any new regulations do not harm Fresno County's economy. The recommended letter has been reviewed by County staff and our Federal advocate, Carpi and Clay.

[1]

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>

[2] <https://railroads.dot.gov/rail-network-development/freight-rail-overview>

ATTACHMENTS INCLUDED AND/OR ON FILE:

Letter of Concern to Federal Delegation
DOT-STB-FRA Letter of Concern from Policy Makers

CAO ANALYST:

Ron Alexander