



May 5, 2020

Mr. Ronald Batory
Administrator
Federal Railroad Administration
U.S. Dept. of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Docket FRA-2019-0068 Comment Re: Texas Central High-Speed Rail Safety Standards

Dear Administrator Batory:

The *Rail Passengers Association* welcomes the opportunity to comment on the Federal Railroad Administration's proposed Texas Central High-Speed Rail Safety Standards. We strongly endorse the proposed rules as published, without exception or qualification. Our Association supports FRA's regulatory efforts in railroad safety to implement high-speed rail and believes the agency's approach in the Texas Central matter is the best way to enable a service-proven high-speed rail system based on Japan's Tokaido Shinkansen system to be implemented in the U.S. at comparable levels of safety and efficiency.

Founded in 1969 as the National Association of Railroad Passengers, *Rail Passengers* is the oldest and largest national organization speaking for the more than 40 million rail passengers in the U.S. Our mission is to improve and expand intercity, regional and urban passenger train services, to support higher speed rail initiatives, to increase connectivity among all forms of transportation and to ensure safety for our country's trains and passengers. We work with all levels of government - Federal, state, local and tribal. This makes communities safer, more accessible and more productive, improving the lives of everyone who lives, works and plays in towns all across America.

In soliciting comments on these proposed rules and standards, FRA essentially sought input on three questions:

1. Does Texas Central's proposed operation qualify to be treated differently by the Federal Railroad Administration under 49 USC §20306?
2. Are the technical safety requirements proposed in the NPRM appropriate and sufficient?
3. Are there economic analysis factors that should be taken into account?

***Rail Passengers* believes that Texas Central's proposed operation clearly qualifies for exemption, that the technical safety requirements as published are more than sufficient and that altering any of the standards as proposed could substantially limit benefits accruing to the traveling public.**

We discuss our comments in detail below.

1. Texas Central's proposed operation qualifies to be treated differently by the Federal Railroad Administration.

There should be no question about whether Texas Central's proposed operation qualifies for different treatment under 49 USC § 20306, whose language is clear and unambiguous: the DOT Secretary "may exempt" a railroad from existing safety rules "when those requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law."

Many decades of continuous, safe operation in Japan at speeds unheard of in the United States demonstrate that the Tokaido Shinkansen system is clearly more efficient and innovative than anything that exists presently in U.S. service. The operation is distinctly different and more advanced than anything now in use in this country. The rolling stock is unique. The track geometry is unique. The signaling system is unique. In every aspect, the Shinkansen is different from, and more advanced than, services operating in the U.S. today. *Rail Passengers* strongly supports the FRA's regulatory approach to permit replication of the Shinkansen's entire safety and operating model as a single system in Texas.

2. The technical safety requirements proposed in the NPRM are thorough, appropriate and sufficient and recognize the unique operating characteristics of the proposed Texas Central system.

Our Association is a voting member of the FRA's Rail Safety Advisory Committee and of the RSAC's Passenger Safety Working Group and as such has had many opportunities to review the proposed requirements and standards in detail, acting as the only representative of the traveling public on these panels. The *Rail Passengers Association* believes the technical safety requirements proposed in the NPRM are very appropriate and sufficiently address significant operational and mechanical differences between the Shinkansen trainsets, rights-of-way and crew training and conventional U.S. passenger railroad systems and practices.

As the FRA correctly notes elsewhere in this docket, this Rule of Particular Applicability formalizes and codifies "standards and practices unique to [Shinkansen's] operations that are inherent to the safe operation of this proposed service in Texas, which must be maintained and protected in order to ensure that the safety record of the Tokaido Shinkansen can be effectively transferred."

This is an extremely important element of this rulemaking. It is simply not enough to buy Japanese rolling stock or even just to import a business model. Unlike any system anywhere else in the world and particularly in the United States, not a single passenger or crewmember has ever been killed on the Shinkansen service in 56 years of operation, despite ridership approaching half a million passengers each day traveling to 17 stations between Tokyo and Osaka.

The Tokaido Shinkansen also has an impressive record of on-time performance with an average annual delay per train of less than 0.5 minutes, currently having 368 trips per day and having carried over 6 billion passengers in 55+ years of operation.

The only way to have any hope of replicating that extraordinary safety record and on time performance is to adopt not just the rolling stock or the construction techniques or the track geometry or the crew training paradigm, but the entire operating philosophy. Implementing a standalone high-speed rail system allows Texas Central to replicate the safety culture of the Japanese Shinkansen operations that have resulted in an unparalleled safety record. As a participant in developing regulatory processes supporting this proposal, *Rail Passengers* believes very strongly that the regulatory approach FRA is taking is both correct and prudent: a whole-systems model to regulate a high-speed rail system through a Rule of Particular Applicability.

2a. Rail Passengers supports the FRA's regulatory efforts in railroad safety to implement high-speed rail.

As a grassroots organization representing rail passengers and advocates, *Rail Passengers Association* has been actively involved in the FRA Railroad Safety Advisory Committee (RSAC) and its working groups for many years. As an RSAC member, the Association helps to develop railroad safety regulations with other stakeholders through the RSAC consensus process.

Most recently, *Rail Passengers* was involved in the RSAC Passenger Safety Working Group discussions related to Tier III equipment, for which FRA published a final rule on November 21, 2018. The Tier III rule incorporates safety requirements essential for high-speed operation, including provisions that are necessary for interoperability over the U.S. general railroad system. The NPRM pertaining to the Texas Central high-speed rail safety standards incorporates all elements that are essential for very high-speed operations, but does not include requirements necessary for interoperability, which allows Texas Central to optimize all components of the system.

In the notice of proposed rulemaking (NPRM) for the Texas Central Railroad high-speed rail safety standards, FRA cites statements from the Tier III final rule and proposes to regulate the Texas Central system as a standalone system. FRA uses a systems approach to regulate the entire system, stating that “a standalone system regulation would have to bring together all aspects of railroad safety (such as operating practices, signal and trainset control, and track), that must be applied to the individual system.” See 85 FR 14036, 14037.

2b. Rail Passengers supports a Tier IV system as discussed in the RSAC Passenger Safety Working Group.

Through discussions with the FRA during the RSAC working group meetings industry members and our Association representing passenger-rail stakeholders agreed with FRA’s approach to include a definition in the second Tier III rulemaking to address standalone Tier IV systems.

A Tier IV system is defined as:

“any railroad that provides or is available to provide passenger service using non-interoperable technology that operates on an exclusive right-of-way without grade crossings, not comingled with conventional passenger equipment or freight equipment, not physically connected to the general railroad system, and is governed by a technology-specific rule of particular applicability, or other regulatory means. For purposes of this definition, ‘conventional passenger equipment’ means either Tier I, II, or III passenger equipment.”

Rail Passengers strongly supports this classification and voted at the RSAC meeting on November 26, 2019, to include the new definition and other proposed regulatory text in the next Tier III rulemaking. A new tier provides FRA more regulatory flexibility to address various types of standalone systems such as Texas Central.

3. Altering any of the standards as proposed could substantially limit benefits accruing to the traveling public, both by degrading the integrity of the whole-systems JR Central operating model Texas Central proposes to adopt and potentially by limiting the utility of the system in ways that would compromise speed or accessibility.

A crucial element of Texas Central’s proposal is to ensure that all key safety aspects of the service-proven Tokaido Shinkansen are replicated in the U.S., an approach *Rail Passengers* strongly endorses. As required by the NPRM, Texas Central must replicate all safety-critical aspects of the Tokaido Shinkansen system, which has the most enviable high-speed rail safety record of any operation in the world.

As noted elsewhere in our comments, the Tokaido Shinkansen system – the first dedicated high-speed operation in the world – has been operating high-speed service since 1964 without accidents resulting in fatalities or injuries to on-board passengers or crewmembers. Implementing a standalone high-speed rail system allows Texas Central to replicate the safety culture of the Japanese Shinkansen operations responsible for that unparalleled safety record and compromising the FRA’s proposal to reflect conventional U.S. operations puts that plan at risk.

Apart from its safety superiority and in contrast to U.S. passenger operations on shared rights-of-way, the Shinkansen boasts effectively flawless on-time performance with cumulative annual delays systemwide measured in mere seconds. Compare this to the services American passengers endure today; the Texas Eagle, for example, was late in March 92% of the time.

Introducing efficient and reliable passenger operations to the U.S. is in the public interest as a way of shifting business models, operational thinking and the expectations of the fare-paying public. Without hyperbole, the Texas Central project has the potential to show Americans an entirely new way to travel that will be safer, more efficient and more reliable than cars, buses, today’s trains or short-haul flying. The best way to ensure that outcome is to embrace the paradigm of regulating Texas Central as a standalone entity in recognition of its unique operating model and technology.

The Texas Central project would be exciting and worthy of support even if all it did was to introduce a new high-speed rail option between the two largest metropolitan regions in Texas. But with the completion of a recent through-ticketing agreement with Amtrak, the Texas Central project goes well beyond creating an important new Texas service. It significantly and positively affects the entire U.S. interstate rail network by linking Houston and Dallas passengers to some 13,958 Amtrak route miles and creating the opportunity for any one of 12,256 journeys combining Texas Central and Amtrak travel on a single ticket.

Texas Central's new through-ticketing agreement with Amtrak meaningfully and powerfully cements the connection between the proposed Houston-Dallas route and the rest of the National Network. The Texas Central service will permit Northbound travelers in Houston to buy a single fare to ride Texas Central's train and connect with Amtrak's Texas Eagle, or with the Heartland Flyer via the Eagle. The Houston Texas Central passenger would thus enjoy single-fare access to any one of 4,753 different journeys on the combined Amtrak-Texas Central network-access to 5,662 route miles of Amtrak service. Southbound travelers can reach any one of the Sunset Limited's 22 destinations or even connect to Amtrak's City of New Orleans or Crescent services, opening up 7,503 potential journeys along 8,296 Amtrak route miles.

Many of these journeys will be trips that might not otherwise have occurred using other modes, with the direct link between the two cities bypassing a major flaw in Amtrak's existing long-distance network as it is currently configured – many connections must today flow through Chicago, a major impediment to travelers in the South and West. New travel always means new consumer spending, injecting life into economies all along the routes served. Northbound Texas Central travelers could visit any one of 97 U.S. destinations, while southbound Texas Central passengers could visit any one of 122, all while buying a single fare either through Texas Central's ticketing system or Amtrak's.

On this basis, *Rail Passengers* believes the high-speed link between Houston and Dallas will have a stimulative effect on passenger-rail journeys beyond the two endpoints. However, the benefits of that stimulative effect will be diminished or even eliminated if alterations to the NPRM as published degrade the efficiency, safety or on-time performance potential of the Texas Central operation as a complete system. We therefore believe that among the economic effects of this proposed rule that deserve consideration are the stimulative effects of additional travel and the potential loss of that economic boost if this rule is either delayed or substantively altered.

SUMMARY

Rail Passengers supports the proposed Texas Central safety standards as written. Representing the fare-paying public, our Association took part in developing elements of these standards, endorses the consensus that resulted in their publication, and believes that the FRA is taking the correct and prudent course in regulating Texas Central as a single, standalone entity based on technology and operational model.

We support FRA's regulatory efforts in railroad safety to implement high-speed rail, and we continue to support a Tier IV system as discussed in the RSAC's Passenger Safety Working Group. *Rail Passengers* endorses FRA's approach to implement a service-proven, standalone high-speed

rail system based on Japan's Shinkansen system because we believe this has the potential to significantly increase the safety and efficiency of rail transportation in the U.S.

We also support any regulatory effort that will clear the way for any investments in high-speed rail in this country as a pathfinder to new and better travel choices for the American passenger, and *Rail Passengers* has been dismayed to see opponents flout the FRA's guidelines for the scope of discussion on this proposed rule to argue the merits of Texas Central's proposals rather than focusing on the questions presented.

Rail Passengers strongly believes that Texas Central's proposed operation clearly qualifies for exemption, that the technical safety requirements as published are more than sufficient and that altering any of the standards as proposed could substantially limit benefits accruing to the traveling public. We appreciate the opportunity to share our views.

Respectfully submitted,



Jim Mathews
President & CEO