Disabling Commuter Railroads – Update

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NEWS FLASH

NO NEWS YET

- No action yet on NPRM ("the level boarding rule") discussed last year

- DOT Undaunted: Using 2005 "Guidance" to achieve the same objective
DOT APPROACH: GUIDANCE = RULE

September 1, 2005 DOT Guidance:

- Essentially the same requirements for level boarding at commuter and intercity rail stations as are “proposed” in the 2006 NPRM in Docket 2006-23985

- But without benefit of compliance with APA
RECENT ACTIONS

- Representatives of APTA, Commuter Rail Agencies and Mobility Service Providers met with OMB

- Representatives of Amtrak and Freight Railroads met with OMB
RECENT ACTIONS —cont’d

- Amtrak, Commuter Rail and Freight representatives met with Jeff Shane, former DOT Undersecretary

- ISSUE: DOT treating Guidance as enforceable rule even though the standards being imposed are under consideration in the NPRM proceeding
RECENT ACTIONS — cont’d

- DOT Reps at Meeting: Jeff Shane; Linda Martin and Richard Cogswell from FRA; John Day from FTA; Bob Ashby

- Purpose of meeting: Object to enforcing “Guidance” without benefit of rulemaking
Mr. Shane promised to review
- But he has now left DOT

Mr. Ashby objected to meeting saying it constituted Ex Parte Communication about issues currently under review in NPRM proceeding
RECENT ACTIONS — cont’d

- Letter to Mr. Shane from Amtrak counsel
  - Copy in supplemental materials

- Memo from Mr. Ashby about the meeting inserted in NPRM Docket
  - attached copy of presentation made by Amtrak counsel
  - Copy in Supplemental Materials
NEXT STEPS

- OMB aware of issues
- No date set for Final Rule
- “We also serve who only sit and wait”
Questions:

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