

# REGULATORY ACTION SUMMARY

**1. Subject:**

Risk Reduction Program (Proposed 49 CFR Part 271)

**2. Action:**

FRA Notice of Proposed Rulemaking

**3. Tourist Railroad Applicability:**

- a. Except as noted in 'c' and 'd' below, the rule as proposed would not be applicable to tourist, historic (etc.) operations either on or off the general system
- b. The rule would technically apply to freight operations of tourist (etc) roads (i.e., "general system" tourist roads), but the requirement to actually develop and implement a risk reduction program (RRP) would only apply to Class I roads or roads with "inadequate safety performance" as determined under the rule. As such, most tourist road freight operations should not require an RRP.
- c. If an RRP railroad (i.e., a railroad required to have an RRP because of its freight operations) also conducts its own tourist operations, the tourist operations would have to be addressed by the railroad's RRP to the extent that those operations create hazards affecting the freight operations
- d. If a tourist railroad operates over the lines of an RRP railroad, the host railroad's RRP would have to address the tourist operations, to the extent that those operations create hazards affecting the freight operations.

**4. Overview:**

The Rail Safety Improvement Act of 2008 requires FRA to adopt rules requiring certain types of railroads (not tourist roads) to develop and implement data based programs to reduce risk. The Act also gives FRA authority to subject other types railroads to these requirements. In 2011, ARM/TRAIN submitted comments in response to an FRA "Advance Notice of Proposed Rulemaking" which opposed making the rule generally applicable to tourist roads, and proposed measures to deal with tourist operations by or over the lines of an RRP railroad. The proposed rule is generally consistent with ARM/TRAIN's position.

**5. Effective / Compliance Dates:**

Not applicable. Not a final rule.

**6. References:**

The FRA notice of proposed rulemaking is available at:

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-27/pdf/2015-03268.pdf>

ATRRM's comments on the proposed rule (April 27, 2015) are available at:

<http://www.regulations.gov/#!documentDetail;D=FRA-2009-0038-0022>

The comments ARM and TRAIN filed in response to FRA's earlier "Advance Notice of Proposed Rulemaking (2011) are available at:

<http://www.regulations.gov/#!documentDetail;D=FRA-2009-0038-0008>

<http://www.regulations.gov/#!documentDetail;D=FRA-2009-0038-0013>