

July 9, 2025

ELECTRONIC SUBMISSION

Attn: FRA-2025-0059

John Karl Alexy
Associate Administrator for Railroad Safety, Chief Safety Officer
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, DC 20590

Re: Notice of Petition for Waiver of Compliance. Docket No. FRA-2025-0059

Dear Associate Administrator Alexy:

I respectfully submit this comment in support of the Association of American Railroads' (AAR) petition to the Federal Railroad Administration (FRA) for a waiver of compliance with the visual track inspection standards in 49 CFR § 213.233 (b) and (c), and for permission to instead employ a combination of track geometry measurement system (TGMS) and visual inspection.

To prioritize safety, the FRA adopted § 213.233 in 1971, requiring frequent track inspections to be conducted "on foot or by traversing the track in a vehicle."¹ Manual inspections, however, can only identify track geometry defects once they become visible to the inspector. Although this regulation relied on a method that was optimal for its time over half a century ago, railroad technology for inspection has advanced substantially over the past 54 years.

Accordingly, it is time for the FRA's decision on AAR's petition to reflect the capabilities of modern 21st-century railroad technology. Since the regulation's adoption in 1971, TGMS – developed through the collaboration between the railroad industry and the FRA – has proved its reliability in detecting geometry defects that might otherwise go unnoticed by inspectors and identifying these issues at an earlier stage. This waiver of compliance will enable the broader adoption of this safety technology across the railroad industry, reducing the risk of injuries and fatalities in incidents.

AAR's waiver will not eliminate manual visual inspections but will instead maintain them at a reduced frequency. Human inspections will continue to offer broad, judgment-based

¹ 49 CFR § 213.233 (accessed July 9, 2025).

oversight that complements TGMS's capabilities, contributing to a comprehensive approach of railroad inspection.

The Trump administration's April 9 executive order on "Reducing Anti-Competitive Regulatory Barriers" articulates a guiding principle that "regulations that reduce competition, entrepreneurship, and innovation...should be eliminated."² § 213.233 fits this description because it requires a specific inspection method, limiting competition from potentially superior alternatives and hindering innovation of advanced technologies that could help achieve the highest standards of railroad safety for Americans.

I therefore support AAR's petition for a waiver from the visual track inspection standards. While the waiver process offers a temporary solution to the prescriptive nature of § 213.233, I recommend that the FRA conduct a broader review of its prescriptive regulations and consider technology-neutral, performance-based standards. Additionally, I suggest that the FRA publish data comparing the costs of different technologies for inspecting rails.

Thank you for the opportunity to comment on this topic.

Respectfully Submitted,

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The Heritage Foundation

² President Donald Trump, "Reducing Anti-Competitive Regulatory Barriers," April 9, 2025, <https://www.whitehouse.gov/presidential-actions/2025/04/reducing-anti-competitive-regulatory-barriers/> (accessed July 9, 2025).

³ Affiliation and title provided for identification purposes only. I submit this comment in my personal capacity only and not as an employee of The Heritage Foundation.