



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV 1 1 2007

The Honorable Robert Riley  
Governor of Alabama  
600 Dexter Avenue  
Montgomery, Alabama 36130

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Riley:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>1</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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<sup>1</sup> These regulations were issued in 1994 under 49 U.S.C. § 28101, before the section was amended on August 3, 2007, by Section 1526(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53). As amended, 49 U.S.C. § 28101 provides that "[a] railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in [49 U.S.C. 28101(a)]." FRA will be commencing a rulemaking to update these regulations.

Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but (B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

49 U.S.C. § 20102. FRA believes that railroad police officers can serve a useful purpose and increase the safety of railroads, even those that are not common carriers. The commenter was concerned that even an entity with a 20-foot-long track could be considered a "railroad carrier." While that is technically true, FRA is provided an opportunity to share suspicious information with the State in its written confirmation. If FRA knows that the entity in question does indeed have an abnormally short track, that information will be conveyed to the State.

One suggestion by BMWE was that State officials, the Administrator of FRA, the Secretary, and the employing railroad carrier be notified any time that an individual has his or her commission revoked by the State. Since FRA and the U.S. Department of Transportation (DOT) would not have the power under this model State law to prohibit an individual from becoming a railroad police officer, notification to the FRA and DOT would be a waste of State resources. FRA expects the State's required background investigation to disclose to any serious problems to a subsequent railroad carrier by

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BMWE also recommended that the model State law include a requirement that appropriate State officials, FRA's Administrator, the Secretary, and the employing transportation entity be contacted when FRA revoked its confirmation because the entity no longer provided rail transportation. This was based on the incorrect assumption that FRA can revoke its confirmation that the employer is a railroad carrier. The model State law does not have any mechanism for FRA to do so, nor does FRA believe one is necessary. FRA does not expect a company that actually provides railroad transportation to cease providing that transportation and yet continue its railroad police force. Additionally, as a practical matter, if FRA discovers that this is the case and the entity still is taking advantage of the rail police provisions, FRA will most likely contact State officials so that they may take appropriate action.

The Association of American Railroads (AAR) suggested a change to clear up potential confusion in the model State law. FRA's proposal required certification that railroad police officers have met "the minimum qualifications established for law enforcement officers under [State law]." AAR observed that some States have requirements for law enforcement officers but others for railroad police officers, and that this provision could be confusing in those cases. FRA agrees. The model State law has been modified so that a State may require an individual to have met either "the minimum qualifications established for law enforcement officers" or "the minimum qualifications established for railroad police officers." This would allow those States who have already created minimum requirements for railroad police officers to avoid confusion.

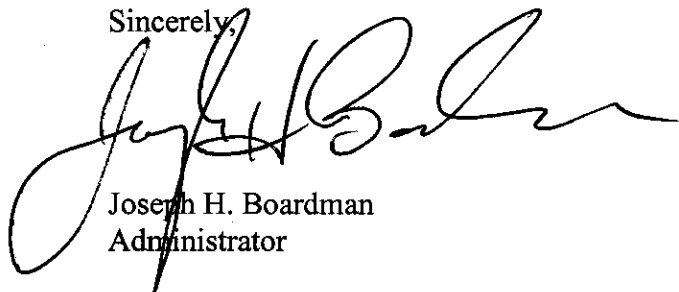
Further, ASLRRA's proposal includes several provisions regarding background investigations and fingerprints more appropriately than FRA's 2006 model bill, and changes have been made in the new model law to reflect this.

A number of the entities that responded did not suggest any changes. FRA received responses from the governments of Vermont, North Carolina, Connecticut, Hawaii, Montana, Maryland and American Samoa. Most of these governments responded neither positively nor negatively toward the model bill. Similarly, the American Public Transportation Association did not recommend any substantive changes to the model State law. It believes that requiring FRA to confirm that an entity is in fact providing railroad transportation would eliminate most, if not all, abuse. The Brotherhood of Railroad Signalmen indicated support for FRA's goal "that only railroad carriers recognized under the Federal railroad safety laws and actively engaged in railroad transportation employ railroad police officers, and that such individuals meet appropriate minimum qualifications[,] but did not recommend any changes.

FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

in order to ensure that only individuals employed real railroad carriers in your State are commissioned as railroad police officers. If FRA can be of any assistance to you in addressing this issue of railroad police officer commissioning, please contact Ann Landis of my legal staff at (202) 493-6064 or (202) 493-6052.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph H. Boardman". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

**Administrator**

**1120 Vermont Ave., NW.  
Washington, DC 20590**

NOV 1 2007

The Honorable Sarah Palin  
Governor of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Palin:

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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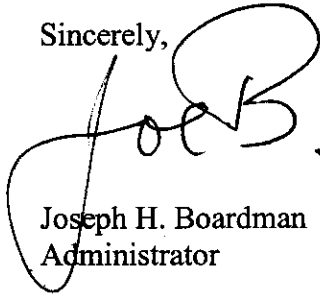
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Sincerely,

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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
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1120 Vermont Ave., NW.  
Washington, DC 20590

NOV 1 2007

The Honorable M. Jodi Rell  
Governor of Connecticut  
210 Capitol Avenue  
Hartford, Connecticut 06106

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Rell:

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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
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**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable C.L. Butch Otter  
Governor of Idaho  
P.O. Box 83720  
Boise, Idaho 83720

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Otter:

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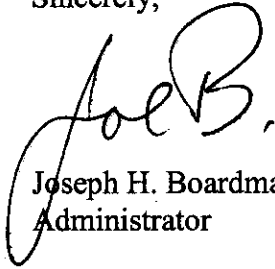
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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B.", with a large, stylized initial "J" and "B".

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Janet Napolitano  
Governor of Arizona  
Executive Tower, 1700 West Washington  
Phoenix, Arizona 85007

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Napolitano:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>3</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but (B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

49 U.S.C. § 20102. FRA believes that railroad police officers can serve a useful purpose and increase the safety of railroads, even those that are not common carriers. The commenter was concerned that even an entity with a 20-foot-long track could be considered a "railroad carrier." While that is technically true, FRA is provided an opportunity to share suspicious information with the State in its written confirmation. If FRA knows that the entity in question does indeed have an abnormally short track, that information will be conveyed to the State.

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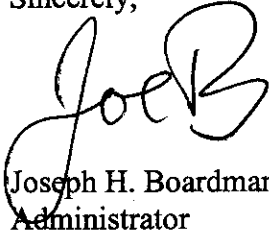
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Bill Ritter  
Governor of Colorado  
136 State Capitol  
Denver, Colorado 80203-1792

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Ritter:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>6</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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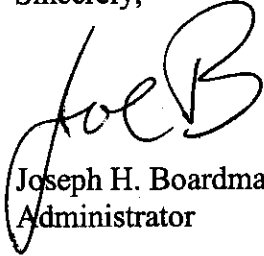
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Ruth Ann Minner  
Governor of Delaware  
Tatnall Bldg, William Penn Street, 2nd Fl  
Dover, Delaware 19901

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Minner:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>8</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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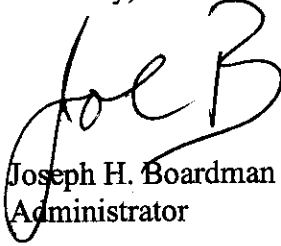
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Charlie Crist  
Governor of Florida  
The Capitol, 400 S. Monroe Street  
Tallahassee, Florida 32399-0001

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Crist:

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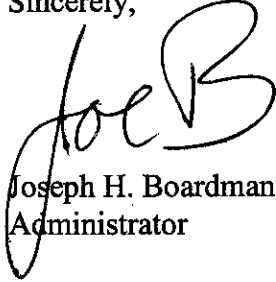
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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Arnold Schwarzenegger  
Governor of California  
State Capitol Building  
Sacramento, California 95814

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Schwarzenegger:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>5</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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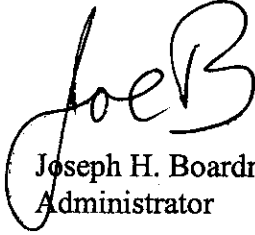
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable G. Ervin Perdue III  
Governor of Georgia  
Georgia State Capitol  
Atlanta, Georgia 30334

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Perdue:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>10</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employes, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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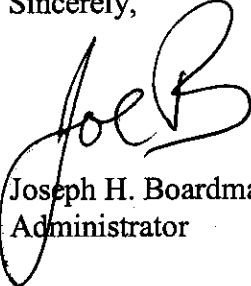
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Linda Lingle  
Governor of Hawaii  
Executive Chambers, State Capitol  
Honolulu, Hawaii 96813

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Lingle:

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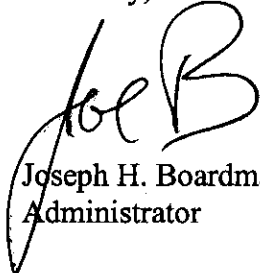
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Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable C.L. Butch Otter  
Governor of Idaho  
P.O. Box 83720  
Boise, Idaho 83720

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Otter:

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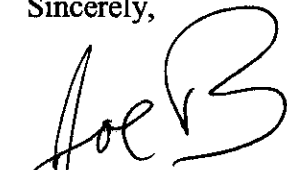
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Rod Blagojevich  
Governor of Illinois  
207 State House  
Springfield, Illinois 62706

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Blagojevich:

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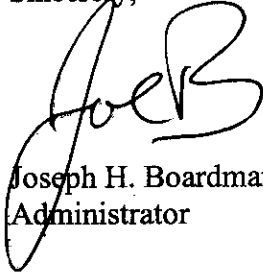
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Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

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Governor of Indiana  
State House  
Indianapolis, Indiana 46204-2797

Re: Revised model State law on the commissioning of railroad police officers

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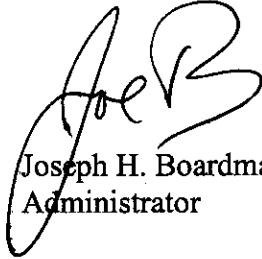
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Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

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Governor of Iowa  
State Capitol  
Des Moines, Iowa 50319

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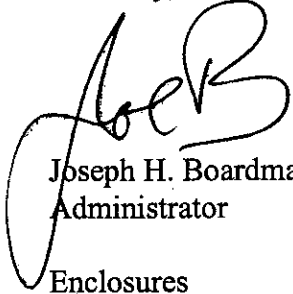
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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B", with a large, sweeping flourish that loops back to the left and underlines the text below.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Kathleen Sebelius  
Governor of Kansas  
State Capitol, 300 SW 10th Ave., Ste. 212S  
Topeka, Kansas 66612-1590

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Sebelius:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>16</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employes, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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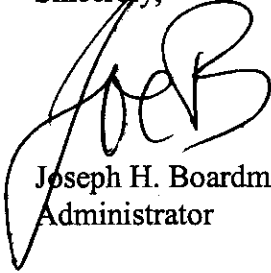
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Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Ernest Fletcher  
Governor of Kentucky  
700 Capitol Avenue, Suite 100  
Frankfort, Kentucky 40601

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Fletcher:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>17</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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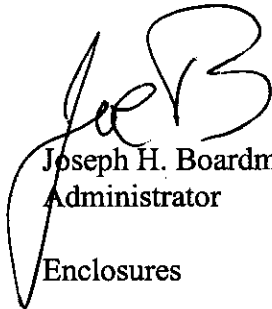
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation  
**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Kathleen Babineaux Blanco  
Governor of Louisiana  
P.O. Box 94004, Attn: Constituent Services  
Baton Rouge, Louisiana 70804-9004

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Blanco:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>18</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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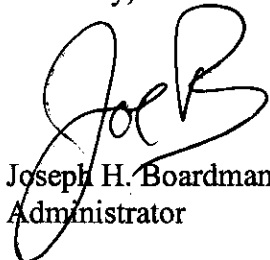
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Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable John Baldacci  
Governor of Maine  
#1 State House Station  
Augusta, Maine 04333-0001

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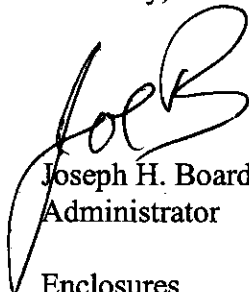
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Martin O'Malley  
Governor of Maryland  
100 State Circle, State House  
Annapolis, Maryland 21401-1925

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor O'Malley:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>20</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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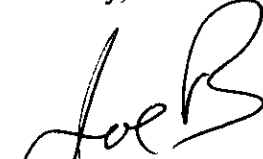
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Joseph H. Boardman  
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Enclosures





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NOV - 1 2007

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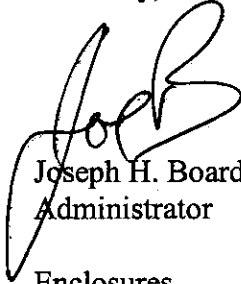
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Enclosures



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of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Deval Patrick  
Governor of Massachusetts  
State Capitol, Room 360  
Boston, Massachusetts 02133

Re: Revised model State law on the commissioning of railroad police officers

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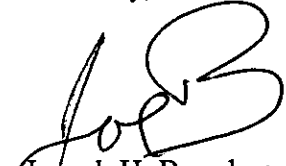
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Enclosures





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400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

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P.O. Box 30013  
Lansing, Michigan 48909

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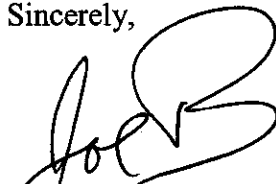
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Sincerely,

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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Tim Pawlenty  
Governor of Minnesota  
75 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, Minnesota 55155

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Pawlenty:

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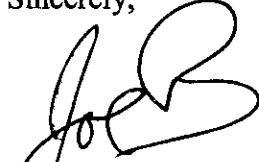
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Haley Barbour  
Governor of Mississippi  
501 N. West Street  
Jackson, Mississippi 39201

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Barbour:

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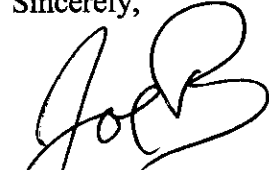
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Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
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Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Matthew Blunt  
Governor of Missouri  
State Capitol Building, Room 216  
Jefferson City, Missouri 65101

Re: Revised model State law on the commissioning of railroad police officers

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A number of the entities that responded did not suggest any changes. FRA received responses from the governments of Vermont, North Carolina, Connecticut, Hawaii, Montana, Maryland and American Samoa. Most of these governments responded neither positively nor negatively toward the model bill. Similarly, the American Public Transportation Association did not recommend any substantive changes to the model State law. It believes that requiring FRA to confirm that an entity is in fact providing railroad transportation would eliminate most, if not all, abuse. The Brotherhood of Railroad Signalmen indicated support for FRA's goal "that only railroad carriers recognized under the Federal railroad safety laws and actively engaged in railroad transportation employ railroad police officers, and that such individuals meet appropriate minimum qualifications[.]" but did not recommend any changes.

FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B", written in a cursive style.

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Brian Schweitzer  
Governor of Montana  
P.O. Box 200801  
Helena, Montana 59620-0801

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Schweitzer:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>26</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
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**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Dave Heineman  
Governor of Nebraska  
P.O. Box 94848, State Capitol  
Lincoln, Nebraska 68509-4848

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Heineman:

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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Jim Gibbons  
Governor of Nevada  
Capitol Building  
Carson City, Nevada 89701

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Gibbons:

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Enclosures



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of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
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NOV - 1 2007

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Governor of New Hampshire  
25 Capitol Street, State House  
Concord, New Hampshire 03301

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Lynch:

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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Jon Corzine  
Governor of New Jersey  
P.O. Box 001  
Trenton, New Jersey 08625

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Corzine:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>30</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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49 U.S.C. § 20102. FRA believes that railroad police officers can serve a useful purpose and increase the safety of railroads, even those that are not common carriers. The commenter was concerned that even an entity with a 20-foot-long track could be considered a "railroad carrier." While that is technically true, FRA is provided an opportunity to share suspicious information with the State in its written confirmation. If FRA knows that the entity in question does indeed have an abnormally short track, that information will be conveyed to the State.

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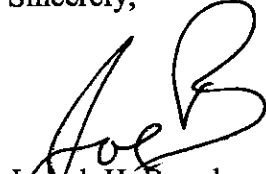
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Sincerely,



Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV -1 2007

The Honorable William Richardson  
Governor of New Mexico  
490 Old Santa Fe Trail, Room 400  
Santa Fe, New Mexico 87501

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Richardson:

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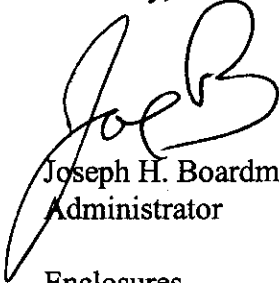
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A handwritten signature in black ink, appearing to read "Joe B", written over the typed name.

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Eliot Spitzer  
Governor of New York  
State Capitol  
Albany, New York 12224

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Spitzer:

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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

The Honorable John Hoeven  
Governor of North Dakota  
600 E. Boulevard Ave., Dept. 101  
Bismarck, North Dakota 58505-0001

Re: Revised model State law on the commissioning of railroad police officers

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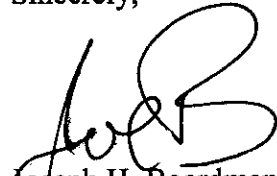
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Ted Strickland  
Governor of Ohio  
77 South High Street, 30th Floor  
Columbus, Ohio 43215-6117

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Strickland:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>35</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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Enclosures



U.S. Department  
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Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Brad Henry  
Governor of Oklahoma  
2300 N. Lincoln Blvd., Room 212  
Oklahoma City, Oklahoma 73105

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Henry:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>36</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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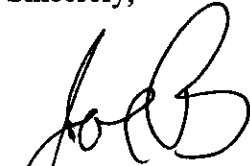
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Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

NOV - 1 2007

The Honorable Theodore Kulongoski  
Governor of Oregon  
160 State Capitol, 900 Court Street  
Salem, Oregon 97301-4047

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Kulongoski:

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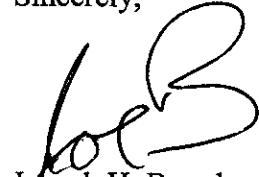
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Enclosures



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of Transportation

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Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Edward Rendell  
Governor of Pennsylvania  
225 Main Capitol Building  
Harrisburg, Pennsylvania 17120

Re: Revised model State law on the commissioning of railroad police officers

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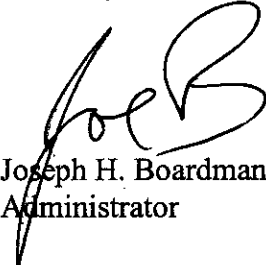
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Sincerely,

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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Donald Carcieri  
Governor of Rhode Island  
State House, Room 115  
Providence, Rhode Island 02903

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Carcieri:

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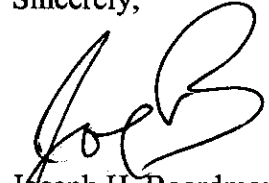
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Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Mark Sanford  
Governor of South Carolina  
P.O. Box 12267  
Columbia, South Carolina 29211

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Sanford:

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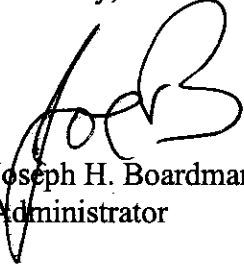
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Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
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Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable M. Michael Rounds  
Governor of South Dakota  
500 E. Capitol Ave.  
Pierre, South Dakota 57501

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Rounds:

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A number of the entities that responded did not suggest any changes. FRA received responses from the governments of Vermont, North Carolina, Connecticut, Hawaii, Montana, Maryland and American Samoa. Most of these governments responded neither positively nor negatively toward the model bill. Similarly, the American Public Transportation Association did not recommend any substantive changes to the model State law. It believes that requiring FRA to confirm that an entity is in fact providing railroad transportation would eliminate most, if not all, abuse. The Brotherhood of Railroad Signalmen indicated support for FRA's goal "that only railroad carriers recognized under the Federal railroad safety laws and actively engaged in railroad transportation employ railroad police officers, and that such individuals meet appropriate minimum qualifications[,]" but did not recommend any changes.

FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

in order to ensure that only individuals employed real railroad carriers in your State are commissioned as railroad police officers. If FRA can be of any assistance to you in addressing this issue of railroad police officer commissioning, please contact Ann Landis of my legal staff at (202) 493-6064 or (202) 493-6052.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe B", written over the typed name.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Philip Bredesen  
Governor of Tennessee  
Tennessee State Capitol  
Nashville, Tennessee 37243-0001

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Bredesen:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>42</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMW), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but (B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

49 U.S.C. § 20102. FRA believes that railroad police officers can serve a useful purpose and increase the safety of railroads, even those that are not common carriers. The commenter was concerned that even an entity with a 20-foot-long track could be considered a "railroad carrier." While that is technically true, FRA is provided an opportunity to share suspicious information with the State in its written confirmation. If FRA knows that the entity in question does indeed have an abnormally short track, that information will be conveyed to the State.

One suggestion by BMW was that State officials, the Administrator of FRA, the Secretary, and the employing railroad carrier be notified any time that an individual has his or her commission revoked by the State. Since FRA and the U.S. Department of Transportation (DOT) would not have the power under this model State law to prohibit an individual from becoming a railroad police officer, notification to the FRA and DOT would be a waste of State resources. FRA expects the State's required background investigation to disclose to any serious problems to a subsequent railroad carrier by

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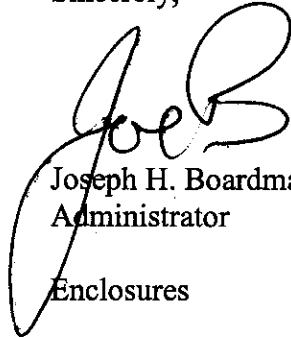
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Sincerely,

A handwritten signature in black ink, appearing to read 'JHB', is written over the typed name and title.

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable J. Richard Perry  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711-2428

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Perry:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>43</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employes, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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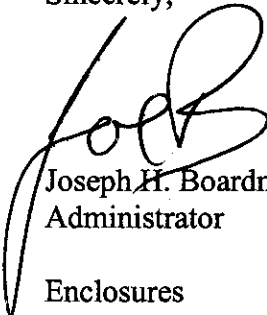
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Sincerely,

A handwritten signature in black ink, appearing to read 'J. Boardman', with a large, sweeping flourish extending downwards and to the left.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Jon Huntsman, Jr.  
Governor of Utah  
East Office Building, Suite E220  
Salt Lake City, Utah 84114-2220

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Huntsman:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>44</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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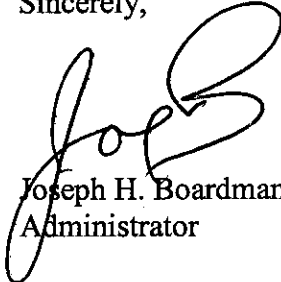
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 7 2007

The Honorable James Douglas  
Governor of Vermont  
109 State Street, Pavilion  
Montpelier, Vermont 05609-0101

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Douglas:

Pursuant to Federal legislation enacted August 3, 2007, I write to request your Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>45</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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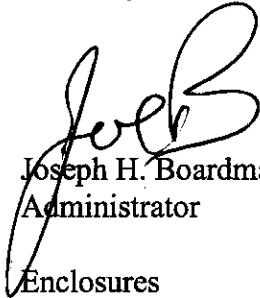
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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B", written over the typed name and title.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Tim Kaine  
Governor of Virginia  
1111 East Broad Street  
Richmond, Virginia 23219

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Kaine:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>46</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

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Sincerely,



Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 7 2007

The Honorable Christine Gregoire  
Governor of Washington  
P.O. Box 40002  
Olympia, Washington 98504-0002

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Gregoire:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>47</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Joe Machin III  
Governor of West Virginia  
1900 Kanawha Boulevard, E.  
Charleston, West Virginia 25305

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Machin:

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Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable James Doyle  
Governor of Wisconsin  
115 East State Capitol  
Madison, Wisconsin 53702

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Doyle:

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A handwritten signature in black ink, appearing to read "J. Boardman", written in a cursive style.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

10/1/07

The Honorable David Freudenthal  
Governor of Wyoming  
State Capitol, 200 West 24th Street  
Cheyenne, Wyoming 82002-0010

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Freudenthal:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>50</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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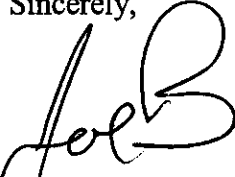
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Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Togiola Tulafono  
Governor of American Samoa  
Executive Office Building, 3rd Floor, Utulie  
Pago Pago, American Samoa 96799

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Tulafono:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>51</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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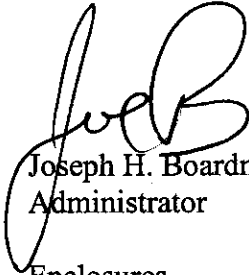
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Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
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**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

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Mayor of Washington, DC  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

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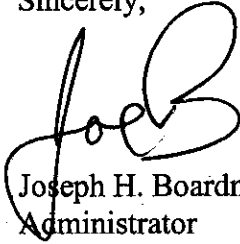
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Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Felix Perez Camacho  
Governor of Guam  
P.O. Box 2950  
Hagatna, Guam 96932

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Camacho:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>53</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation “to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation.” Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA’s letter enclosed a copy of the agency’s 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employes, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

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One suggestion by BMWE was that State officials, the Administrator of FRA, the Secretary, and the employing railroad carrier be notified any time that an individual has his or her commission revoked by the State. Since FRA and the U.S. Department of Transportation (DOT) would not have the power under this model State law to prohibit an individual from becoming a railroad police officer, notification to the FRA and DOT would be a waste of State resources. FRA expects the State's required background investigation to disclose to any serious problems to a subsequent railroad carrier by

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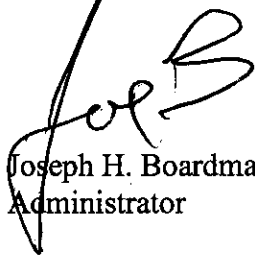
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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

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Sincerely,

A handwritten signature in black ink, appearing to read 'Joe B', written over the printed name.

Joseph H. Boardman  
Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Benigno Repeki Fitial  
Governor of Northern Mariana Islands  
Caller Box 10007, Capital Hill  
Saipan, Commonwealth of the Northern Mariana Islands 96950

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Fitial:

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B", written over the typed name and title.

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
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**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Anibal Acevedo Vila  
Governor of Puerto Rico  
P.O. Box 9020082  
San Juan, Puerto Rico 00902-0082

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Administrator

Enclosures



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable John P. de Jongh  
Governor of Virgin Islands  
Government House, 21-22 Kongens Gade, Charlotte Amalie  
St. Thomas, U.S. Virgin Islands 00802

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor de Jongh:

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FRA appreciates all of the comments that were submitted. I am enclosing a copy of the modified bill and encourage your State to consider enacting the model State legislation

in order to ensure that only individuals employed real railroad carriers in your State are commissioned as railroad police officers. If FRA can be of any assistance to you in addressing this issue of railroad police officer commissioning, please contact Ann Landis of my legal staff at (202) 493-6064 or (202) 493-6052.

Sincerely,

A handwritten signature in black ink, appearing to read 'JHB', is written over the typed name and title.

Joseph H. Boardman  
Administrator

Enclosures





U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Office of the Administrator

1120 Vermont Ave. N.W.  
Washington, D.C. 20590

NOV - 1 2007

The Honorable Michael Easley  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, North Carolina 27699-0301

Re: Revised model State law on the commissioning of railroad police officers

Dear Governor Easley:

Federal Railroad Administration (FRA) regulations allow a railroad police officer who is commissioned in any State to enforce laws protecting the railroad in all States in which the railroad owns property and to which the railroad has provided notice in accordance with the regulations. 49 C.F.R. §§ 207.1-207.5.<sup>33</sup> In mid-September 2007, FRA wrote to representatives of the States, railroads, and railroad employees, seeking input on what provisions should be included in a model State law that attempts to curtail the abuse of existing State laws allowing the commissioning of railroad police officers. In so doing, FRA was acting as the delegate of the Secretary of Transportation (Secretary) and under the instructions of Congress, which had requested that the Secretary create model State legislation "to address the problem of entities that claim to be railroad carriers in order to establish and run a police force when the entities do not in fact provide railroad transportation." Section 1526(b) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53); see also definitions in Section 1501(7), (8), and (9). FRA's letter enclosed a copy of the agency's 2006 model State legislation on railroad police commissioning and requested comments on that proposed legislation in particular. FRA received a number of comments about its proposed model State law, and the agency has modified the proposal as a result; the revised model State law is enclosed.

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<sup>33</sup> These regulations were issued in 1994 under 49 U.S.C. § 28101, before the section was amended on August 3, 2007, by Section 1526(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. No. 110-53). As amended, 49 U.S.C. § 28101 provides that "[a] railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in [49 U.S.C. 28101(a)]." FRA will be commencing a rulemaking to update these regulations.

Some comments suggested changes that went beyond the scope of FRA's Congressional mandate. For example, the American Short Line and Regional Railroad Association (ASLRRA) worked extensively on a proposed Federal bill that would federalize the commissioning of railroad police officers. FRA, however, was required to create a model State law. Louisiana also recommended Federal control of this area. Additionally, the Brotherhood of Maintenance of Way Employees, a Division of the Teamsters Rail Conference, International Brotherhood of Teamsters (BMWE), recommended that the proposed bill be expanded to include "rapid transit operations in an urban area that are not part of the general railroad system of transportation," entities currently regulated by the Federal Transit Agency but not by FRA. (See discussion of the term "railroad carrier" below.) In response to the Congressional request, delegated by the Secretary to FRA to fulfill, FRA created a model State law that utilized the full extent of its jurisdiction. It can go no further.

In fact, one commenter thought FRA's proposal was too inclusive. The Tourist Railway Association, Inc., suggested that, of all railroads, only common carriers by railroad be allowed to establish railroad police forces. Both Section 1526(b) of Pub. L. 110-53 and FRA's railroad police officers regulations deal with police officers employed by a "railroad carrier," as this term is defined in 49 U.S.C. § 20102. See Section 1501(8) of Pub.L. 110-53 and 49 C.F.R. 207.1. The term "railroad carrier" is broader than the term "common carrier by railroad" and

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but (B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

49 U.S.C. § 20102. FRA believes that railroad police officers can serve a useful purpose and increase the safety of railroads, even those that are not common carriers. The commenter was concerned that even an entity with a 20-foot-long track could be considered a "railroad carrier." While that is technically true, FRA is provided an opportunity to share suspicious information with the State in its written confirmation. If FRA knows that the entity in question does indeed have an abnormally short track, that information will be conveyed to the State.

One suggestion by BMWE was that State officials, the Administrator of FRA, the Secretary, and the employing railroad carrier be notified any time that an individual has his or her commission revoked by the State. Since FRA and the U.S. Department of Transportation (DOT) would not have the power under this model State law to prohibit an individual from becoming a railroad police officer, notification to the FRA and DOT would be a waste of State resources. FRA expects the State's required background investigation to disclose to any serious problems to a subsequent railroad carrier by

which that individual attempted to become employed as a police officer. For obvious reasons, however, a railroad carrier that currently employs an individual as a police officer should be notified of a State's revocation of the individual's commission, and the model bill has been changed to reflect such notification requirement.

BMWE also recommended that the model State law include a requirement that appropriate State officials, FRA's Administrator, the Secretary, and the employing transportation entity be contacted when FRA revoked its confirmation because the entity no longer provided rail transportation. This was based on the incorrect assumption that FRA can revoke its confirmation that the employer is a railroad carrier. The model State law does not have any mechanism for FRA to do so, nor does FRA believe one is necessary. FRA does not expect a company that actually provides railroad transportation to cease providing that transportation and yet continue its railroad police force. Additionally, as a practical matter, if FRA discovers that this is the case and the entity still is taking advantage of the rail police provisions, FRA will most likely contact State officials so that they may take appropriate action.

The Association of American Railroads (AAR) suggested a change to clear up potential confusion in the model State law. FRA's proposal required certification that railroad police officers have met "the minimum qualifications established for law enforcement officers under [State law]." AAR observed that some States have requirements for law enforcement officers but others for railroad police officers, and that this provision could be confusing in those cases. FRA agrees. The model State law has been modified so that a State may require an individual to have met either "the minimum qualifications established for law enforcement officers" or "the minimum qualifications established for railroad police officers." This would allow those States who have already created minimum requirements for railroad police officers to avoid confusion.

Further, ASLRRRA's proposal includes several provisions regarding background investigations and fingerprints more appropriately than FRA's 2006 model bill, and changes have been made in the new model law to reflect this.

A number of the entities that responded did not suggest any changes. FRA received responses from the governments of Vermont, North Carolina, Connecticut, Hawaii, Montana, Maryland and American Samoa. Most of these governments responded neither positively nor negatively toward the model bill. Similarly, the American Public Transportation Association did not recommend any substantive changes to the model State law. It believes that requiring FRA to confirm that an entity is in fact providing railroad transportation would eliminate most, if not all, abuse. The Brotherhood of Railroad Signalmen indicated support for FRA's goal "that only railroad carriers recognized under the Federal railroad safety laws and actively engaged in railroad transportation employ railroad police officers, and that such individuals meet appropriate minimum qualifications[,]" but did not recommend any changes.

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Sincerely,

A handwritten signature in black ink, appearing to read "Joe B.", written in a cursive style.

Joseph H. Boardman  
Administrator

Enclosures