RAILROAD-SHIPPER TRANSPORTATION ADVISORY COUNCIL
Washington, D.C.

Position Paper

Section 45G Railroad Track Maintenance Credit And The Short Line Investment Tax Credit Extension

October 5, 2010

RSTAC

The Railroad-Shipper Transportation Advisory Council ("RSTAC") was established pursuant to the ICC Termination Act of 1995. Its 15 appointed members consist of senior officials representing government, shippers, and railroads. They share a common goal to strengthen the national rail industry to improve service levels and foster mutually beneficial relationships between large and small railroads and shippers, across all commodity groups.

RSTAC is charged to provide a private sector forum for the discussion of matters of concern to small rail shippers and small railroads and to provide advice on regulatory, policy and legislative matters to the Surface Transportation Board (STB), Secretary of Transportation, and Congress.

BACKGROUND

Short line railroads play a crucial role in the national transportation system. With more than 500 short line and regional railroads operating over 50,000 miles of track today, these workhorses of industry represent approximately 30 percent of the national railroad system. Short lines originate or terminate one out of every four carloads moved by the domestic railroad industry and operate in 49 states. They are known as the "first mile, last mile" segment of the national rail network.

This is the most vulnerable part of the railroad system, serving tens of thousands of small towns and small businesses who would otherwise lose their connection to the national main line railroad network. For shippers, the ability to use short line railroads means lower transportation costs, more flexible local service, and a greatly expanded market reach for local products.

The short line industry is the story of local entrepreneurs saving and rehabilitating the previously money-losing branch lines of the Class 1 railroads. Without these local business owners stepping up to invest in rail infrastructure, these lines would have been abandoned and lost forever.

From the very beginning, these lines faced a deferred maintenance issue, requiring large amounts of capital investment to play catch up. In 2008, the most conservative studies estimated the need for $13 billion worth of track improvements to meet demand and to accommodate the new heavier 286,000-pound railcar that is becoming the industry standard.

SECTION 45G SHORT LINE RAILROAD TAX CREDIT

To address these problems Congress adopted Internal Revenue Code Section 45G as a part of the American Jobs Creation Act of 2004. This code section was based on S.1703 (19 co-sponsors) and H.R.876 (268 co-sponsors) from the 108^{th} Congress. The credit provided for a 50% tax credit incentive, capped at $3,500 per mile, for small railroads that invested to rehabilitate their infrastructure in 2005-2007. The short line railroad tax credit was then extended through 2008 and 2009 by the 2008 Financial Rescue Package (based on S.881 with 45 co-sponsors and H.R.1584 with 249 co-sponsors).

Because each dollar in credit is generated by two dollars in private investment, short line railroads have rapidly increased and accelerated track rehabilitation. This ripple effect of increased infrastructure investment spending has been noted by the railroad construction contractors that perform much of the labor, the domestic supply industry that provides the material and heavy equipment, and most importantly by the more than 12,000 short line customers – the small companies that rely on this crucial service.

The short line railroad rehabilitation tax credit has been a remarkably successful government policy. It has helped small businesses thrive and encouraged local entrepreneurs to continue aggressively investing in the nation's rail infrastructure. The Section 45G tax credit expired on December 31, 2009, and has yet to be extended.

H.R. 1132 AND S. 461 – EXTENSTION OF 45G

Currently, H.R. 1132 (259 co-sponsors) and S. 461 (53 co-sponsors) were introduced in the 111th Congress to show what strong support short line railroads had among Congressional representatives. Because of this success, the 45G credit was attached to the Tax Extenders Act of 2009 and passed both the House and Senate. The short line industry and its stakeholders are waiting for these two chambers to determine the best offsets for the larger bill before the package can be passed.

Because the credit has not been extended for 2010, short line railroads have been unable to undertake infrastructure projects they otherwise would have. Further, the railroads are not able to engage in any long term planning until they are certain of the investment tax credit. The Section 45G tax credit generates 6,890,000 rail maintenance-of-way worker hours each year. On an annualized basis, this equates to 3,305 full-time jobs nationwide. This does not include the tens of thousands of spin-off jobs in industries that produce the materials, equipment, and supplies used in the infrastructure projects.

Extension of the credit will allow the small railroads to continue rehabilitating track throughout the short line network allowing them to better serve small shippers. The 45G tax credit has meant that short lines and their shippers have been able to undertake hundreds of millions of dollars of infrastructure investments. These investments have improved safety, efficiencies, and service offerings to all shippers. Without the extension, many infrastructure projects will be delayed or abandoned altogether, which would be a serious problem for the national rail network.

Just as importantly, 45G has produced thousands of jobs in the short line industry, the vendor industries, and among shippers.

RSTAC urges Congress to take affirmative action to extend the Section 45G tax credit retroactively to January 1, 2010 for a multi-year period.

Terry Voss
Chairman

Reilly McCarron
Vice Chairman

Bruce Ridley
Secretary