



AMERICAN  
PUBLIC  
TRANSPORTATION  
ASSOCIATION

December 8, 2017

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#### RE: Comments on ACHP 2017-5025

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Advisory Council on Historic Preservation (ACHP) notice of Proposed Draft Program Comment to Exempt Effects of Transportation-Related Undertakings Within Rail Rights-of-Way, published on November 17, 2017 at 82 FR 54390. We appreciate this opportunity to comment.

#### About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation.

#### General Comments

While we support the general direction the Advisory Council on Historic Preservation (ACHP) is taking to streamline Section 106 regulations (36 CFR 800), we do not believe the proposed Program Comment meets the legislative intent of Section 11504 of the FAST Act. Congress instructed ACHP to “issue a final exemption of railroad rights-of-way from review under chapter 3061 of title 54 consistent with the exemption for interstate highways approved on March 10, 2005.” Language from the exemption for interstate highways notes that, with some exceptions, “All Federal agencies are exempt from the Section 106 requirement of taking into account the effects of their undertakings on the Interstate Highway System” (70 Fed. Reg. 11928). APTA urges the ACHP to reconsider its proposed regulations because the proposed Program Comment is inconsistent with the current exemption for interstate highways, and, therefore, is not consistent with the intended goals, direction, and policy objectives of the FAST Act. As a result, ACHP’s proposed regulations do not effectively streamline the process of working within railroad rights-of-way.

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We appreciate the opportunity to assist the ACHP in this important endeavor. For additional information, please contact Linda Ford, APTA's General Counsel, at (202) 496-4808 or [lford@apta.com](mailto:lford@apta.com).

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard A. White". The signature is fluid and cursive, with the first name being the most prominent.

Richard A. White  
Acting President & CEO

RAW:el/lcf