BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY )
RULEMAKING OF THE OKLAHOMA )
CORPORATION COMMISSION, )
AMENDING OAC 165:32, RAILROADS )

CAUSE NO. RM 20190003

AMENDED RULE IMPACT STATEMENT

On June 17, 2019, pursuant to 75 O.S. § 253(B) of the Oklahoma Administrative Procedures Act, the Transportation Division of the Oklahoma Corporation Commission ("Commission") filed its Rule Impact Statement for its proposed emergency rules regarding Title 165, Chapter 32 of the Oklahoma Administrative Code ("OAC"). As permitted by 75 O.S. § 303(D), the Transportation Division hereby submits this Amended Rule Impact Statement, amending the Rule Impact Statement filed on June 17, 2019.

I. Brief description of the purpose of the proposed rule:

The purpose of the proposed emergency rule is to implement House Bill 2472 ("HB 2472"), which will be codified at 66 O.S. § 190 and will become effective July 1, 2019. This rule creates the framework by which municipalities, county sheriffs, and the Department of Public Safety may enforce citations related to blocked railroad crossings by bringing an action before the Commission.

II. Description of classes of persons most likely to be affected by the proposed rule, including classes that will bear costs of the proposed rule, and any information on cost impacts received by the agency from private or public entities:

The classes of persons most likely to be affected by the proposed rule are railroad companies operating within Oklahoma, law enforcement agencies, municipalities, Oklahoma county governments, the Oklahoma Highway Patrol, and the Oklahoma Corporation Commission. Considerable costs are expected to be associated with enforcement of HB 2472 in general. These costs will include those of municipalities, Oklahoma county governments and the Oklahoma Highway Patrol who will issue citations and appear before the Commission, operational costs for railroad companies to comply with HB 2472, citation costs for railroad companies regarding violations, and operational costs borne by the Commission for the utilization of administrative law judges, court reporters and administrative/accounting personnel necessary to adjudicate the alleged violations. The Commission will bear these costs as a direct result of the implementation of the proposed rule.

No specific information regarding cost impact has been received from any private or public entity.
III. Classes of persons who will benefit from the proposed rule:

Those benefitting from the proposed rule include railroad companies, municipalities, Oklahoma county governments and the Oklahoma Highway Patrol, who will have clear rules in place regarding the Commission's regulation of enforcement actions for blocked crossing violations. Additionally, the general public will benefit from the proposed rules by knowledge of the Commission's regulation in this area.

IV. Description of the probable economic impact of the proposed rules upon affected classes of persons or political subdivisions, including a listing of all fee changes and justification for each fee change:

Probable economic impacts related to the enforcement of HB 2472 in general will affect various classes of persons and political subdivisions. Those impacts include the costs borne by the Commission in administering the new laws and adjudicating the violations, the costs borne by municipalities, Oklahoma county governments and the Oklahoma Highway Patrol related to bringing actions before the Commission, operational costs for railroad companies to comply with HB 2472, and citation costs for railroad companies regarding violations. Also, revenue may be generated for municipalities and counties as a result of the payment of fines for violations under the new law.

The proposed rule does not propose a filing fee associated with filing an enforcement action pursuant to HB 2472, thus no fee change/justification is included herein.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues:

Substantial costs may be incurred for the general implementation of HB 2472 by the Commission, as more enforcement cases will now be filed and heard in the Commission administrative courts. This will increase the workload on the Commission’s administrative law judges, court reporters, attorneys and administrative/accounting personnel necessary to adjudicate the alleged violations. Additionally, other agencies will likely incur costs associated with prosecution of violations, as well as other unforeseen costs. No new revenue has been specifically allocated to fund the additional costs incurred. Revenue generated by the fines may help fund some portion of the implementation process.
VI. Determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

Municipalities, Oklahoma county governments and the Oklahoma Highway Patrol will incur some costs associated with prosecution of citations issued for violations.

VII. Determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

It is possible that the enactment of HB 2472 will have an adverse economic effect on small businesses if any railroad companies operating in Oklahoma meet the definition of a small business as defined by the applicable Oklahoma statute. The adverse effect could include costs associated with changes to operations to avoid violations, in addition to payment of any fines if ultimately determined to be in violation of the new law.

VIII. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The proposed rule minimizes compliance costs by not requiring a fee for filing of an enforcement action. Additionally, there are no non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule. The proposed rule establishes a procedure for implementing enforcement of HB 2472.

IX. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rule has a direct effect on the public health and safety. The proposed rule is designed to implement a procedure for enforcement of HB 2472. The enforcement procedure within the proposed rule will help to facilitate enhanced public safety in the municipalities and counties affected by blocked crossings.

X. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

A detrimental effect will likely occur with an increased risk to public health and safety resulting from lack of efficient enforcement measures.
XI. Date of preparation of Amended Rule Impact Statement:

This Amended Rule Impact Statement was prepared on the 21st day of June, 2019.

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