Statement of Enforcement Discretion Regarding FRA's Emergency Order Requiring Face Mask Use in Railroad Operations (Emergency Order No. 32)

This statement explains how FRA will exercise its discretion when enforcing Emergency Order No. 32, taking into consideration recent guidance from the Centers for Disease Control and Prevention (CDC) on the wearing of masks in transportation.

On January 29, 2021, the CDC issued an order requiring the wearing of masks by persons on transportation conveyances and on the premises of transportation hubs to prevent spread of COVID-19 (CDC Mask Order). On June 10, 2021, the CDC provided updated Guidance and Frequently Asked Questions, regarding the requirement to wear masks in outdoor spaces. Specifically, the CDC announced it will exercise its enforcement discretion regarding certain aspects of the CDC Mask Order to not require that people wear masks while outdoors on conveyances (if such outdoor areas exist on the conveyances) or while outdoors at transportation hubs. CDC also stated that it will be amending the CDC Mask Order to reflect this updated approach.

On March 1, 2021, FRA issued Emergency Order No. 32 to require compliance with the requirements of the CDC Mask Order. FRA's Emergency Order No. 32 remains in effect. However, in situations where Emergency Order No. 32 may conflict with CDC's guidance regarding mask-wearing in outdoor areas of transportation conveyances and outdoor areas at transportation hubs, FRA will exercise its discretion to not take enforcement action under Emergency Order No. 32. If CDC amends the CDC Mask Order, FRA also intends to amend Emergency Order No. 32 to clarify its application in light of that CDC action. FRA will similarly exercise its enforcement discretion for any future CDC guidance regarding the CDC Mask Order that may conflict with Emergency Order No. 32.

This statement does not address any CDC guidance that is not specifically related to the CDC Mask Order, such as general CDC guidance on mask-wearing for vaccinated persons.