



May 3, 2010

The Honorable Joseph C. Szabo
Administrator
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington D.C. 20590

**RE: Federal Railroad Administration Docket No. FRA-2010-0020
National Rail Plan**

Dear Administrator Szabo:

On behalf of the Transportation Trades Department, AFL-CIO (TTD) we are pleased to comment on the development of the Federal Railroad Administration's (FRA) long-range National Rail Plan (NRP). We share the opinion of the FRA that freight and passenger rail play an important role in meeting the transportation needs of the U.S. economy and we see an opportunity for the NRP to build on this success. In order to assure the success envisioned in the Preliminary NRP, the final NRP must establish a framework for a robust rail system that creates and sustains good jobs, protects workers and helps grow a safe and efficient system.

As the FRA develops its national vision for the future of rail in the United States, there are several principals and objectives that must guide the agency's actions. For passenger rail, Amtrak must be fully funded and supported so that it can provide the first-class service we demand and play a central role in the delivery of high speed rail as envisioned by President Obama. Freight railroad operations must receive additional federal support and intermodal connections to our nation's seaports, roadways and other transportation centers must be enhanced. Safety must continue to be the number one priority for the FRA and swift implementation of the Rail Safety Improvement Act of 2008 (RSIA) will ensure that as rail opportunities expand, outstanding safety challenges can be addressed. The rights and jobs of workers must be protected. Specifically, rail workers should be covered under the appropriate rail statutes, construction workers should be subject to comprehensive Davis-Bacon requirements, and Buy America rules must be strictly enforced. In addition, the NRP must include national standards for rail training, apprenticeship and certification for employees of the railroad industry. Now is time to ensure that these initiatives are implemented correctly, so the NRP can develop appropriately.

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President • Patricia Friend, Secretary-Treasurer

Amtrak is America's national passenger rail carrier and must play a central role in the NRP's vision for the future of our nation's passenger rail. More than 19,000 workers are employed by Amtrak serving over 27 million passengers a year. While the FRA looks to enhance passenger rail, the fundamental needs of Amtrak must be met. Specifically, the carrier must be funded at least at the levels authorized by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) in order to continue to improve the U.S. rail passenger network. This funding would ameliorate what the Preliminary NRP referred to as Amtrak's "uncertain budgets and ambiguities about the future of passenger rail service" and allow Amtrak to make much needed capital investments.

In the implementation of the NRP, the FRA must establish strategies to fund Amtrak's fleet plan. The policies developed under the NRP should establish specific, aggressive funding targets for recapitalizing Amtrak equipment to assure that it has the projected \$11 billion to invest in new equipment. Today, the average age of the railroad's equipment is almost 25 years. Without the purchase of a new fleet, it will be impossible for Amtrak, and by extension the FRA, to improve passenger rail and meet the standards set out in PRIIA.

Amtrak is the best candidate to provide high speed rail service across America as envisioned by President Obama. The carrier has an established national network which includes an extensive reservation system, existing rolling stock, statutory relationships with the freight railroads, a physical infrastructure that could be leveraged to support various high speed rail initiatives and decades of demonstrated compliance with all federal rail laws. As the NRP envisions federal cooperation with state and local governments in order to implement an efficient national system which meets both regional and national goals, Amtrak's experience partnering with state and local governments over the previous decades to provide passenger rail service should be an asset. Additionally, Amtrak understands and has a track record of adhering to the various grant requirements imposed by the federal government.

Most importantly, Amtrak has a dedicated and experienced workforce that will be critical in rolling out and operating high speed passenger rail service. Experienced conductors, mechanical shop employees, signalmen, train dispatchers, Carmen and onboard service workers – to name just a few – are all employed by the company and understand what it takes to run a passenger rail system. These employees have delivered Amtrak service to a growing national ridership, are the best trained passenger rail workers in the nation, and are well positioned to implement a high-speed rail program of the scope and size envisioned by the FRA.

The use of Amtrak for high speed rail service will eliminate certain employee issues that could arise if a new entity is created instead. It is well established that Amtrak is a carrier covered under the Railway Labor Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act and other applicable rail and labor statutes. Collective bargaining has existed at the carrier since its creation and current labor agreements are in place with all the company's unions. While rail unions and Amtrak have experienced challenging negotiations over the years, the company does understand its obligations under the various rail statutes and the inherent costs associated with those obligations.

In addition to the expansion of our nation's passenger rail system, the NRP must include policies that will expand our nation's freight rail system and enhance carrier's ability to move cargo efficiently. The freight rail industry is an important engine that links commerce, drives the economy, and provides many good middle class jobs. According to U.S. Department of Commerce data, every \$1 spent on investments in our freight railroads creates \$3 in economic output and each \$1 billion of rail investment creates 20,000 jobs. The NRP should endorse policies that promote continued private investment in rail and allow railroads to attract and serve the broadest range of freight customers. As part of this objective, the economic regulation of the rail industry must allow the carriers to be profitable, continue to provide their employees with good wages and benefits, and invest in rail infrastructure.

The rise in shipper demand will bring about the need for further freight transportation investments. There needs to be more investment in freight rail infrastructure from both the government and the rail carriers themselves. Freight rail is a profitable industry, and the Preliminary NRP has pointed out some of the steps the industry has taken to improve its service. However, government investment in rail infrastructure can be made to reduce chronic chokepoints at our nation's seaports, rail yards and intermodal centers. Meanwhile strategies must be developed that will allow the freight rail industry to allocate the appropriate resources to invest in the expansion of freight rail. One such proposal that we support, is embodied in the pending legislation to provide tax incentives to encourage investment in the expansion of freight rail infrastructure capacity (H.R. 1806). Such policies would allow the freight rail industry certain tax credits that could be reinvested in funding the expansion of service, improvements in the rail network and the creation of jobs.

As our country embarks on a new energy policy, freight rail can and should play an important role. As the Preliminary NRP points out, railroads have improved their fuel efficiency by 23 percent between 1990 and 2007. Each ton of freight transported via rail can move more than 450 miles per gallon of fuel consumed. Policies developed through the NRP should maximize these benefits and expand what the Preliminary NRP refers to as "the cost-effective, fuel efficient and environmentally friendly" transportation of freight.

We wholeheartedly support the Preliminary NRP's goal of improving safety throughout the entire rail sector. The NRP offers an opportunity to implement the positive improvements to the industry which became law in the RSIA. The preliminary NRP points out the benefits from the implementation of positive train control (PTC) which by 2015 will be required to be installed on all Class I mainline track where certain hazardous materials are transported and on mainline track over which intercity or commuter rail passenger transportation is regularly provided. Furthermore, the implementation of the requirements in RSIA to fight fatigue and "limbo" time, increase worker training, enhance grade crossing safety programs, and increase the federal inspector workforce will greatly enhance safety.

As part of the NRP, it must be clearly stated that entities providing rail service are considered carriers and be covered under the appropriate rail statutes. In recent years, new developments in passenger rail have threatened these standards in some places, to the detriment of workers and passengers. Specifically, certain states have acquired portions of the interstate system for

commuter rail service without Surface Transportation Board (STB) approval or exemption, and these workers may no longer be classified as rail employees. In these situations rail employees covered under the Railway Labor Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act and other applicable rail and labor statutes may fall outside these statutes even though interstate freight service continues on the acquired lines. The FRA must establish firm policy that rail carriers are consistently covered by these statutes and the agency must reject schemes that exclude rail workers. As the FRA knows, as a condition to receive high speed rail grants from PRIIA and the Recovery Act, applicants must be carriers and FRA must ensure that this is enforced.

The FRA must also ensure that any construction work undertaken with federal assistance is covered by Davis-Bacon prevailing wage requirements. Davis-Bacon has for almost 80 years required federal-project contractors to pay workers current rates in the community where the federally funded project is under construction. In addition, consistent with an Executive Order issued by President Obama early in his administration, the FRA should consider using project labor agreements (PLAs) as a cost-effective procurement option.

We also urge the FRA to ensure that Buy America requirements are fulfilled. These apply to the FRA and are included in the Amtrak statute and the applicable funds in the PRIIA and the Recovery Act. We have long believed that a strong transportation system is dependent on a strong domestic manufacturing base that can produce raw materials and finished products, including train equipment. The FRA has shown its commitment to domestic manufacturing by convening domestic manufacturing summits to bring together stakeholders and ensure that federal and private investments in passenger and high speed rail can build an industry and sustain jobs. The policies developed under the NRP should embrace the opportunity to revitalize the domestic manufacturing sector in the United States.

There is no question that our nation's ability to produce locomotives, rail cars and related train equipment has declined in recent years. Instead of using this fact to grant Buy America waivers that will further erode U.S. manufacturing, the Administration must work with Amtrak, other providers of service, labor and potential manufacturers to ensure that there is both a steady need and a standing production capability for U.S.-made products. As most governments around the world promote the use of their domestic manufacturers when spending public funds for procurement purposes and for public works projects, the FRA must promote the use of U.S. manufacturers as it develops and implements the NRP.

The implementation of the NRP Plan should also include the development of national standards for rail training, apprenticeship and certification for employees of the railroad industry. Safety, security and emergency incident response training for railroad employees needs to be an integral part of occupational technical skills training. Such training will protect the public and the workers who rely on rail for transportation and employment. As proven in the transit industry, as well as others, the best training is produced by a bottom-up, joint labor-management approach. This approach is generally recognized as far superior to the alternative of third-party expert-based training development that may or may not address the needs that railroads and their front line workers experience every day. A partnership-based, data-driven training program developed

by and for the railroad industry will achieve the highest quality results. Incorporating these elements within the NRP will provide a framework of jointly developed and jointly supported national training standards and will ensure safety, efficiency, continuity and consistency across the rail industry. National standards and related certifications will provide workers with increased job mobility and employers with a guaranteed level of training quality and worker skill.

A successful NRP will establish a framework for a robust rail system that creates and sustains good jobs, protects workers and helps grow a safe and efficient system. We look forward to working with you and the Secretary to advance the President's vision for a National Rail Plan.

Thank you for taking the time to consider the views of transportation labor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with a horizontal line underneath.

Edward Wytkind
President