



## **FEDERAL RAILROAD REGULATORS ASLEEP AT THE SWITCH**

A scathing report recently issued by the Inspector General (IG) at the U.S. Department of Transportation confirms what transportation workers have known for years – the Federal Railroad Administration (FRA) must be more aggressive in policing safety at the nation's railroads.

Transportation labor has long argued that the FRA is too cozy with the industry it regulates – a relationship that puts the safety of the public and railroad workers at risk. A spate of accidents and a *New York Times* series citing corporate misconduct within the rail industry have highlighted the need for comprehensive rail safety reforms.

The Bush Administration's FRA has lauded its "partnership" approach which purports to address safety matters through collaboration at the highest levels of FRA and railroad management. Responsibly crafted collaborative initiatives can work, but they do not replace the role of an independent federal regulator that keeps an arm's length from the industry it is supposed to oversee.

While rail labor has worked cooperatively with the FRA under the Rail Safety Advisory Committee (RSAC) and the Safety Assurance and Compliance Program (SACP), which was created under former Administrator Jolene Molitoris, we agree with the IG's assessment that the FRA needs to be "sensitive to the point in time when partnership has gone far enough and traditional enforcement is most appropriate." It is clear that the "partnership" only approach is not producing an environment conducive to protecting workers and public safety.

The IG report further verifies that there has been at the very least the appearance of impropriety with regard to the former FRA Acting Administrator vacationing several times with an industry lobbyist whose railroad was under investigation by the FRA. Clearly, this is an industry with no shortage of friends in high places: Vice President Dick Cheney is a former board member of Union Pacific and Treasury Secretary John Snow is the former chief executive of CSX. And the industry has undoubtedly used its friends and influence to stonewall rail safety legislation for years. The last rail safety reauthorization bill expired in 1998. Transportation labor put forth a comprehensive rail safety agenda in 1999, expecting a swift and constructive debate among all interested parties. But instead, we have gotten nothing but self-serving claims by the industry that no new rail safety laws are needed.

The IG report also confirms that train accidents and defect ratios (instances of non-compliance with FRA standards) are up, especially at Union Pacific. More than 1,600 people have been killed at grade crossings since 2000, with a sharp increase in deaths last year. According to the *New York Times*, faulty signals at rail crossings caused 400 auto accidents and 45 deaths between 1999 and 2003. January's crash of a train carrying chlorine in South Carolina killed nine and

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forced the evacuation of over 5,000 residents. Late last year a string of accidents in Southern California led to evacuations and resulted in injuries. And there have been at least four deaths in remote control locomotive-related accidents.

In the San Antonio area alone, the Union Pacific has been involved in nine derailments and accidents with fatalities in the last year including one hazardous materials incident. And yet, in spite of these accidents Union Pacific had the audacity to petition the FRA for a waiver of safety inspection requirements of trains coming into the U.S. from Mexico, proposing instead to allow inspections to be performed by private contractors in Mexico. By looking to outsource critical safety functions to Mexico, UP protects its bottom line rather than safety. TTD and a number of affiliated unions petitioned the Department of Transportation (DOT) and the FRA to reject the UP's waiver request. While we are pleased that the DOT agreed with our view that UP's foreign train inspection scheme posed far too many safety risks to be ignored, we also know that UP is likely to revise its contracting out plan and resubmit its request to the FRA.

The number of inspectors at the FRA whose responsibility it is to oversee the nation's 230,000 miles of track is woefully inadequate. Currently the FRA has about 415 inspectors, or one federal inspector for every 550 miles of track – the distance between Washington, DC and Portland, Maine.

The President's FY 2006 budget highlights the fact that it includes funding for two new safety positions to conduct inspections at facilities where tank cars are built or repaired – presumably in response to the tragic accident in South Carolina and other recent incidents involving hazardous materials. It is interesting to note, however, that the FRA's budget for salaries and expenses remains flat for FY 2006. The Administration's pronouncement doesn't pass the laugh test in light of the safety crisis on America's railroads. A more appropriate response would be to actually double the number of inspectors in order to more adequately protect our nation's network of rails, the people who work on them as well as communities and the public.

The FRA is tasked with ensuring that our nation has a safe rail transportation system, yet it appears that fostering efficiency and the economic prosperity of the major carriers is its core mission. The rail industry has kept federal regulators at bay. The FRA has levied fines – averaging only \$2,133 – for just two percent of all violations. Fines this small are little more than nuisances, on par with delivery trucks getting parking tickets. We need a federal agency that is committed to rail safety, to worker and workplace safety and to the safety and security of the public. Simply “partnering” with the industry isn't enough. Transportation labor calls on Congress to amend the law in a manner that ensures the FRA maintains an “arm's length” relationship with the multi-billion dollar rail companies they oversee.

We applaud those in Congress who have put forth rail safety plans that address critical issues for rail workers such as whistleblower protections, penalties against employers that intimidate or harass workers, fatigue management, resolving environmental issues within locomotive cabs, increased enforcement and penalties for companies that violate FRA safety rules, and limiting remote control operations especially with respect to the movement of hazmat.

We will also continue to pursue fixes to the dangers presented in so-called “dark territory” – areas of the railroad that have no track signal systems. The South Carolina wreck occurred in “dark territory,” an operational reality on 40 percent of our rail system. These are areas along the rights-of-way where the railroads have refused to install or removed signal systems that would warn crew members of track conditions, including corrupt switches, that lie ahead. This is the train equivalent of a big truck driving on I-95 at night without headlights. Dark territories also pose tempting targets for vandals, let alone terrorists, particularly given the huge volume of dangerous substances being transported via rail in communities across the country. At a minimum, the FRA must order trains to reduce speeds in dark territories when traveling over switches until signal systems are installed.

Dark territories are just one example of how railroads play to Wall Street with a slavish devotion to the bottom line that defers capital investments, slashes key staff, and even uses unmanned locomotives to move rail cars – some carrying hazardous materials – around crowded yards.

Federal oversight of the railroads has been too weak for too long. And the railroad industry has clearly proven incapable of policing itself. 2005 must be the year Congress steps in to protect rail workers and the American public from unsafe rail operations.

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