



A bold voice for transportation workers

May 23, 2011

The Honorable Joseph C. Szabo
Administrator
Federal Railroad Administration
(Attention: Docket Operations, M-30)
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Rm W-12-140
West Building Ground Floor
Washington, DC 20590-0001

Re: Docket No. FRA-2009-0043, Notice No. 1: Hours of Service of Railroad Employees; Substantive Regulations for Train Employees Providing Commuter and Intercity Rail Passenger Transportation; Conforming Amendments to Recordkeeping Requirements

Dear Administrator Szabo:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to write in support of the notice of proposed rulemaking (NPRM) for hours of service (HOS) of railroad employees providing passenger transportation. Specifically, we endorse the comments submitted by our affiliate the United Transportation Union (UTU), which represents train employees on passenger and commuter railroads and whose members are directly impacted by this rulemaking.

This rulemaking demonstrates another critical step that the Department of Transportation (DOT) and the Federal Railroad Administration (FRA) have taken to improve the safety of our nation's transportation system. We applaud the leadership of DOT for again demonstrating their steadfast commitment to safety. TTD has long supported efforts to strengthen hours of service laws for train employees and other rail workers, and we have been actively engaged in pushing for the passage of legislation and implementation of regulations that would increase safety.

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President / Larry I. Willis, Secretary-Treasurer



Fatigue among train employees has been and remains a significant issue that must continually be addressed. This fact has been demonstrated time and time again, often with disastrous consequences. Most recently, two train employees were killed in Iowa in an early morning accident in which fatigue may have played a role in that this crew did not have a predictable work schedule. The National Transportation Safety Board (NTSB) has issued numerous recommendations regarding fatigue in the rail sector, with Hours of Service Improvements showing up on NTSB's "Most Wanted List" of transportation safety improvements twice in the last decade. Passage of the Rail Safety Improvement Act of 2008 (RSIA), which authorized this rulemaking, made some needed improvements to the Hours of Service Act, originally passed over a century ago. However, it fell short in many regards, which UTU and other unions have noted. One area in which hours of service rules could be significantly improved is through emphasis on predictable and defined work/rest periods. Lack of a predictable work schedule has consistently shown to be the cause of unsafe fatigue levels.

In passing the RSIA, Congress recognized that predictable and defined work/rest periods are effective in reducing fatigue. The RSIA did not mandate immediate changes to HOS for passenger train employees as a recognition that the defined start times for safety critical employees working in commuter rail and intercity rail passenger service alleviate almost all issues with fatigue. There is broad consensus among scientists and other experts that predictable work schedules mitigate fatigue and improve operational safety significantly.

In the absence of this rulemaking, passenger train employees would soon become subject to the more stringent hours of service laws mandated by Congress in RSIA for freight train employees. However, FRA, working with the Rail Safety Advisory Committee, has developed a performance-based regulation that is more appropriate for passenger train employees. The use of scientific fatigue modeling and abatement will reduce the risk of human factors accidents and serve as a model for future analysis of work schedules.

Though this proposed rulemaking is superior to the HOS regulations implemented for freight train employees in the RSIA, it is not without fault. As detailed in UTU's joint comments with the Brotherhood of Locomotive Engineers and Trainmen (BLET), there is little empirical evidence for the need to limit the newly-defined Type 1 assignments, those that are generally during the day and do not involve significant fatigue risk. Consequently, this provision stands out as subjective. Additionally, proposed section 228.405(a)(4), regarding limitations on consecutive duty tours, is in need of clarification or revision. Bringing this section in line with a seven-day calendar week, which most passenger trains operate on, would make schedules easier for the railroads to manage and less confusing for employees.

Finally, we would like to echo UTU and BLET's request for a 10 hour advance call for unassigned service for employees in the freight industry. Employees that are better able to predict their schedule are better able to mitigate fatigue, thereby reducing the risk of human factors accidents.

Again, we applaud the FRA for offering this proposed rulemaking and look forward to the implementation of regulations that will enhance safety in passenger rail service. We hope you will consider the changes we have highlighted above, as well as those offered by UTU and BLET, which represent the employees directly affected by this rulemaking. Thank you in advance for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward Wytkind". The signature is fluid and somewhat abstract, with several loops and overlapping lines.

Edward Wytkind
President