



A bold voice for transportation workers

August 7, 2020

Mr. John Karl Alexy
Associate Administrator for Railroad Safety & Chief Safety Officer
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: LIRR Petition for Waiver of Compliance
Docket Number FRA-2020-0045**

Dear Mr. Alexy,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's request for comment on its notice entitled Petition for Waiver of Compliance from Long Island Rail Road (LIRR). TTD consists of 33 affiliate unions representing workers in all modes of transportation, including impacted employees at Long Island Railroad. We therefore have a vested interest in this petition.¹ We also strongly endorse the comments of the Transport Workers Union of America, a TTD-affiliated union.

The proposed waiver would allow LIRR to provide instructor-led video training instead of hands-on instruction on emergency equipment in cases where in-person training is unsafe due to pandemic, natural disaster, state of emergency, or other unforeseen circumstances. The waiver has been submitted separately from the COVID-19 emergency relief docket, which grants waivers for 60 days at a time. Instead, LIRR is requesting the waiver for a full year without ongoing review.

TTD opposes this waiver because LIRR's proposal to substitute video training for hands on training neither serves the public interest nor is consistent with railroad safety, as is required by statute (49 U.S.C. 20103(d)). We understand the need to modify operations during the COVID-19 crisis, and we do not oppose regulatory relief being granted in a measured, responsible way with necessary restrictions and time limitations. This petition has attempted to avoid those critical safeguards while also seeking unjustified regulatory flexibility beyond COVID-19 needs.

TTD has previously opposed replacing hands-on training requirements, as they provide an unparalleled level of instruction and safety.² In this instance, the video training LIRR has proposed will not provide the same level of practical familiarity with emergency equipment as

¹ Attached is a list of TTD's 33 affiliate unions

² For example, TTD comments to Docket Numbers FRA-2020-0001 and FRA-2018-0075

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hands-on training. The regulations addressed in LIRR's waiver, contained at 49 CFR 239.101(a)(2), requires hands-on instruction on the operation and location of potentially life-saving emergency equipment. Hands-on instruction ensures that employees have a practical understanding of emergency procedures and are prepared to execute them at a moment's notice. Video training on such critical procedures simply cannot maintain existing levels of railroad safety.

In its petition, LIRR justifies the need for the waiver due to reduced manpower and social distancing requirements caused by COVID-19, leading to postponement of training and reduced class sizes. These issues are precisely the type of needs that the COVID-19 emergency relief docket (ERD) was created to address. We note that LIRR and others have already pursued a number of waivers through this process, including on issues relating to training. However, the petition does not provide any justification for submitting the petition separately from the ERD, which allows for waivers to be granted multiple times in 60-day increments if relief is still needed. If LIRR is pursuing this waiver in response to the COVID-19 crisis, it should make use of the ERD process. If LIRR is pursuing this waiver in pursuit of more general regulatory flexibility, it should not predicate its request on COVID-19 conditions.

By submitting the petition through a standard docket, it is incumbent upon LIRR to provide evidence and justification that the regulatory relief is needed to apply to the proposed slew of non-pandemic circumstances. The petition proposes to allow video training during natural disasters, states of emergency, and any "other unforeseen circumstances," unrelated to the pandemic. However, COVID-19 is the only justification offered in the petition. Without further justification and explanation, granting a waiver for vague and unspecified "unforeseen circumstances" would be unnecessary at best and dangerous at worst, and granting this waiver would allow LIRR to skirt proven safety guidelines at their whim. TTD opposes any waiver that would give regulated entities the unilateral authority to decide when they do and do not want to comply with federal safety regulations. Further, we believe strongly that the global health crisis resulting from COVID-19 should not be used as an opportunity to hinder safety for years to come.

As stated above, we understand that regulatory flexibility is necessary during the unprecedented COVID-19 crisis. However, LIRR has failed to abide by the established procedures for COVID-19-related relief and has not provided justification for non-COVID-19-related relief. We therefore urge FRA to reject the petition which would unnecessarily compromise safety of rail employees and passengers.

We thank FRA for the opportunity to comment on this petition and look forward to working with the administration on rail safety issues going forward.

Sincerely,



Larry I. Willis
President



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TTD MEMBER UNIONS

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of Government Employees (AFGE)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Iron Ship Builders,
Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Longshoremen's Association (ILA)
International Organization of Masters, Mates & Pilots (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Aviation Safety Specialists (PASS)
Sailors' Union of the Pacific (SUP)
Sheet Metal, Air, Rail and Transportation Workers (SMART)
SMART-Transportation Division
Transportation Communications Union/ IAM (TCU)
Transport Workers Union of America (TWU)
UNITE HERE!
United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)
United Mine Workers of America (UMWA)
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service
Workers International Union (USW)

These 33 labor organizations are members of and represented by the TTD

