



A bold voice for transportation workers

OPPOSING ABUSIVE RAILROAD ATTENDANCE POLICIES

For years, fatigue has persisted as one of the single greatest threats to railroad safety. An inability to concentrate, decreased situational awareness, and reduced reaction times when tasked with the operation of freight trains — including those carrying explosive, radioactive, and flammable cargoes — can turn deadly with a moment's notice. Despite this, Class I railroads have continued to pursue abusive and punitive attendance policies that push employees past their physical limits, forcing them to choose between their livelihoods and performing their jobs safely. Union Pacific's recent adoption of a draconian attendance policy followed by BNSF's adoption and deployment of its "Hi-Viz" policy are the most recent and egregious entries into this race to the bottom. BNSF's Hi-Viz, and other policies like it are not compatible with safe railroad operations, and it is essential that their existence does not persist.

Many railroad employees, like engineers and conductors, work on unpredictable schedules and are continuously on call. They may be given 90 minutes' notice before a shift that takes them away from home for multiple days. Given the safety-sensitive nature of their work, it is critical that they are not overly fatigued. Yet policies like those of Union Pacific and BNSF guarantee that this will be the case. Under BNSF's new policy, it provides its engineers, conductors, and yardmasters 30 "points", from which it will deduct when an employee is unable to come to work, including when sick or caring for a family member. BNSF will increase the severity of the deduction for certain "High Impact Days", including Thanksgiving and Christmas. Once the 30 points are exhausted, an employee will be disciplined. Covered workers are prohibited from banking more than 30 points, and the only way to "earn" points back is to work for 14 days straight. Employees are permitted to call off if they feel they are too tired to operate safely — at the cost of a deduction. The ramifications of the policy should be obvious to anyone — employees are incentivized to come to work sick, skip time with their family, and work when they are too tired to do so safely, all of which is particularly offensive and concerning during a global pandemic.

BNSF's motivations in its unilateral implementation of Hi-Viz are clear and in direct conflict with its claims that the carrier prioritizes "fostering a culture that makes safety our highest priority and continuously examines the effectiveness of our safety process and performance." Instead, the adoption of increasingly harsh and dangerous scheduling policies like this one is little more than yet another figment of its Precision Scheduled Railroading ethos, a commitment to "doing less with less" at the altar of increasing profits at any cost.

The timing of the unveiling of the Union Pacific and BNSF policies is also no surprise. After years of dramatic and unnecessary cuts to their workforces, these Class 1 rail carriers found themselves shorthanded in the midst of the supply chain crisis, at one point even going so far as to ration service between the congested Port of LA-Long Beach and Chicago. Following an unimpressive effort to make up for the thousands of jobs it cut pre-pandemic, Union Pacific and

BNSF have now decided they will instead focus on squeezing out the required hours out of the workforce they have left, regardless of if those employees have any hours to give. The negative consequences to the lives of these employees, and to rail safety, will be severe.

The threat of attendance and scheduling policies that place safety last is hardly a new concern. Over twenty years ago, the Department of Transportation produced a report on railroad fatigue, writing that “Work scheduling is a particular problem in on-call operations... extensive night operations are incompatible with normal circadian rhythms. Staffing limitations often require extensive overtime and reduce the effectiveness of any work schedule. These and other institutional factors significantly contribute to employee sleep deficit and overall fatigue.” Since the publication of that report, scheduling demands from railroads have only worsened, not improved. Congress saw fit to become involved in these practices through the FAST Act, creating new pilot programs to measure the positive impacts of more scheduled shifts on safety and fatigue. Since the passage of the bill almost seven years ago, no Class I railroad has agreed to participate. And even today, as Union Pacific and BNSF take steps that will increase fatigue and reduce safety, the Federal Railroad Administration is simultaneously conducting a study on fatigue among conductors and engineers that we have no doubt will produce concerning results. The demands on these employees have become increasingly unsustainable, and action must be taken.

First, we call on BNSF and other Class I railroads to abandon policies that put their employees in impossible positions and threaten the safety of the freight rail network in favor of humane and well considered attendance programs that balance the scheduling needs of the railroad with the basic needs of its workforce. We also call on the Department of Labor and the Department of Transportation to determine if abusive railroad policies incur statutory or regulatory violations. Finally, in the event the policy does not violate the written letter of the law, we call on the FRA to use its authority to address degrading fatigue conditions at the carrier and other Class I’s, including via the promulgation of its forthcoming Fatigue Management Plan rulemaking.

Hi-Viz and similar policies serve to do nothing more than increase demands of an already exhausted workforce. For the dignity of these rail workers, their quality of life, and the safety of our nation’s freight railroad network, they must be abandoned and reconsidered.

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