



Transportation Trades Department, AFL-CIO

January 29, 2024

The Honorable Nuria Fernandez
Administrator
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**Re: Transit Worker Hours of Service and Fatigue Risk Management
Docket No. FTA-2023-0018**

Administrator Fernandez:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Transit Administration's (FTA) advanced notice of proposed rulemaking (ANPRM) regarding potential standards for hours of service and fatigue risk management programs for transit workers. TTD consists of 37 affiliated unions, including those representing the majority of public transportation workers in the United States, whose safety and livelihoods will be impacted by potential regulations governing hours of service and fatigue risk management for transit employees.¹ In addition, we endorse the comments submitted by our affiliates, the Transport Workers Union of America (TWU) and the Amalgamated Transit Union (ATU).

Background

Prior to responding to the substance of this ANPRM, we'd like to first express our strong disapproval of the FTA's handling of this proceeding. From the beginning of this rulemaking process, the FTA's noticeable partiality toward the American Public Transportation Association (APTA) has been an affront to our members. The FTA has made feeble attempts to engage with the labor organizations whose members will be directly affected by the establishment of hours of service requirements, all the while holding listening sessions that have served as sounding boards for anti-worker and anti-union sentiments. The FTA must consider the perspectives and expertise of those directly involved in providing this essential service to our communities. We urge the FTA to work with labor stakeholders in an open and meaningful way going forward.

Recommendations

TTD and our affiliates have long called for both legislative and regulatory solutions to improve the safety of our public transportation system and protect the workers dedicated to keeping our communities moving. Establishing

¹ Attached is a complete list of TTD's affiliated unions.

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer

hours of service requirements for transit workers, however, risks undermining their well-being without necessarily enhancing public safety. To that end, we respectfully request that the FTA withdraw this ANPRM. The FTA provides minimal justification for this ANPRM, going so far as to point to fatigue-related safety incidents from nearly 20 years ago, while moving slowly to address the more pressing safety concerns, including assaults on transit workers, that our members continue to raise.

Should this rulemaking process move forward, however, we urge the FTA to consider the below recommendations and incorporate them into the proposed rule.

Fatigue Risk Management

Any proposed rule establishing hours of service requirements for transit employees should empower workers to make reasonable decisions regarding fatigue. Specifically, the FTA should consider enshrining common sense protections, including the ability for workers to call out, without the threat of discipline, when fatigued. Recognizing the importance of worker well-being, this and similar measures are essential for creating a safe and sustainable work environment.

In addition, Fatigue Risk Management Programs (FRMP) should be integrated with agency Safety Committees. As the FTA is aware, Safety Committees are responsible for, at a minimum: (1) identifying and recommending risk-based mitigations or strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment; (2) identifying mitigations or strategies that may be ineffective, inappropriate, or were not implemented as intended; and (3) identifying safety deficiencies for purposes of continuous improvement. Given these responsibilities, Safety Committees are in the best position to establish FRMPs that suit the unique needs specific to an individual transit agency and its employees. Furthermore, Safety Committees guarantee that both labor and management have a seat at the table and can work collaboratively to address issues relating to fatigue in a way that satisfies all of the parties involved.

Overtime

Preserving workers' ability to earn overtime and pick up shifts is paramount. Should the FTA move forward with establishing hours of service requirements, they *must* respect workers' rights to continue to work voluntary overtime shifts. This ensures not only fair compensation but also acknowledges the autonomy of workers to manage their schedules in accordance with their personal circumstances. It also serves as a vital component in attracting and retaining a skilled and dedicated workforce, crucial for the overall success and efficiency of any transit agency. Ultimately, preserving workers' rights to voluntary overtime is a demonstration of a commitment to both the well-being of employees and the effectiveness of the services they provide.

In addition, we urge the FTA to prohibit mandatory overtime. As our affiliates, the TWU and ATU, state in their comments on this docket, most transit workers in the United States can be forced to work extended hours or on their scheduled day off at their manager's discretion. Even if a worker is fatigued, they risk losing their job if they do not take on these additional hours.

Data Collection

To inform decision-makers at both local and national levels, there is an urgent need for credible data collection. We have long expressed our concerns that public transit statistics are based on incomplete data compiled through

outdated National Transit Database (NTD) reporting requirements, necessitating the statutory requirements for additional and better data collection in the IIJA. The FTA should incorporate fatigue-related measures into NTD reporting requirements in order to establish a more comprehensive data collection process. This will provide valuable insights into workforce conditions, facilitating informed decision-making for the betterment of all stakeholders.

Conclusion

In conclusion, we urge the FTA to withdraw this ANPRM. Should the FTA choose to move forward, however, we respectfully request that our recommendations are taken into serious consideration. We further encourage the FTA to give due and serious consideration to the recommendations of our affiliated unions, which go into much greater detail on these as well as other concerns. We appreciate the opportunity to comment on this matter and look forward to working with the FTA in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Regan", written over a circular stamp or seal.

Greg Regan
President