



Railroad Workers United

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The Rank & File in Action!

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September 6th, 2022

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Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue SE. W12-140
Washington, DC 20590

Re: Docket Number FRA-2021-0032

To Whom it May Concern:

To its credit, the Federal Railroad Administration (FRA), on July 28, 2022, finally published a Notice of Proposed Rule Making (NPRM) on the issue of train crew staffing. This crucial safety question was first raised at the FRA by former Director Joe Szabo when he stated in 2014 that *"safety is enhanced with the use of a multiple person crew - safety dictates that you never allow a single point of failure."* (Note Szabo's use of the word NEVER.) Railroad Workers United (RWU) agrees with this statement and cannot support the FRA Proposed Rule in its current form because it would allow virtually any railroad to potentially run almost any train with fewer than two employees. As currently written, the Proposed Rule could allow for numerous instances of single crew operations in the coming years.

Rather than a Rule that would prohibit single-employee operations of trains, the FRA's Proposed Rule outlines the process by which: a) railroads that are already operating with a single crew member can achieve authorization to continue the process; and, more importantly, b) railroads interested in implementing single crew operations can obtain a road map for doing just that. The FRA is attempting to placate unions, community groups, and the general public on the one hand with a "Two Person Train Crew Rule" while, on the other hand, signaling a green light to the industry to run trains with a single crew member.

While the Proposed Rule, at first glance, seems to suggest a minimum of two crew members is mandatory, it contradicts itself. It states that single-employee crews are acceptable ... as long as they are done "safely" (As proposed, FRA will approve a petition only if it finds doing so would be consistent with railroad safety. FRA expects to support a petition if the Associate Administrator for Railroad Safety independently determines that a railroad's safety case establishes that the proposed operation will not result in an unacceptable level of risk.)

Crucially, this is where we disagree with FRA. There is no "safe" way in the U.S. to run a train with a single crew member, period. And while there may be the rare occasion where a limited single crew application might be feasible, the wording of the Proposed Rule seems to suggest that any current rail

operations may apply to the FRA to run these trains with a single crew member, and that application could be accepted, depending upon the current political slant at the Administration (Note that the previous FRA chief Ron Batory - a former rail CEO - stated his belief that practically any and all train operations were considered "safe" with two members or one crew member.

The Proposed Rule reads: *"As proposed, FRA will approve a petition only if it finds doing so would be consistent with railroad safety. FRA expects to approve a petition if the Associate Administrator for Railroad Safety independently determines that a railroad's safety case establishes that the proposed operation will not result in an unacceptable level of risk. In terms of the proposed risk assessment methodology, FRA will approve a petition if the Associate Administrator independently determines that a railroad's safety case establishes an acceptable level of risk generally or an acceptable level of risk under specific conditions identified. An unacceptable level of risk would be a level of risk that would make the particular operation inconsistent with railroad safety."*

As a result of the shortcomings in FRA's Proposed Rule back in 2016, the unions of the operating crafts — the Brotherhood of Locomotive Engineers & Trainmen (BLET) and the International Association of Sheet Metal, Air, Rail, and Transportation Workers - Transportation Division (SMART-TD) - issued at that time a joint statement of opposition to the Proposed Rule in its current form. More than one thousand rank & file railroad workers — primarily engineers and conductors — made public comments to the FRA regarding the issue from March 16 to June 15, 2016, during the written comment period. Practically 100% of these comments insisted on the importance of a minimum of two employees on every train crew. Many gave real-life examples of experiences in the field where a two- person crew had proven indispensable.

Finally, we are deeply concerned that the Proposed Rule would pre-empt state laws that outlaw single-person train crews. *"This proposal would also enhance safety nationwide by replacing the existing patchwork of State laws regarding crew size with a uniform national standard. Without consistent guidelines, railroads may be subjected to disparate requirements in every State in which they operate, resulting in potential safety risks, operational inefficiencies, and significant costs."* Unlike this FRA Proposed Rule, these existing state laws do not allow for rail carriers to submit waivers and petitions to run trains with a lone crew member. The rail unions and hundreds of conductors and engineers worked long and hard to achieve these state laws. We do not wish to see them pre-empted by a federal agency Rule that would allow for single crew operations.

The rail carriers' insistence should not sway the public and the FRA that this is a subject best left to the bargaining table with the labor organizations. The general public has a considerable stake in this issue. Throughout our nation's history, railroad safety has been federally mandated in one form or another in order to protect the safety of workers, passengers, and communities. Hundreds of examples of such regulation exist - from the application of air brakes to trains starting in the 19th century, to the requirement of a "working two-way end-of-train device" in the 1990s, to the recent update of the hours-of-service law, implemented in the last decade. Just like these significant safety advances, the all-important question of train crew staffing should not simply be left up to the rail industry to decide what is best for all of us.

The FRA must amend the Proposed Rule to prohibit the widespread application of single-employee train crews to the U.S. rail industry. To do otherwise would be an abrogation of its responsibility to railroad workers, trackside communities, shippers, passengers, and the citizenry at large.

Sincerely yours,



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