



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

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April 6, 2022

Administrator Amit Bose
Federal Railroad Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Dear Administrator Bose:

We write to implore your agency to finalize an outstanding mandate from 2008 to address the condition of railroad worker fatigue and its negative effects on safety.

After decades of studying the issue, the FRA has a clear understanding of the safety risks posed by fatigue: fatigue symptoms include falling asleep, slower reaction time, attention loss, performance impairment, and increase error. A number of individual, environmental, and organizational factors can contribute to the likelihood of fatigue, such as general health and medical conditions as well as scheduling and other practices that affect opportunities for workers to obtain sufficient quality and quantity of sleep.

Fatigue isn't just an inconvenience; FRA research has established that the probability of rail accidents increases as fatigue increases. Yet the problem persists: between 2000 and 2020, the National Transportation Safety Board conducted 11 major investigations of accidents involving railroads in which fatigue was identified as the probable or a contributing cause.

Despite the known risks associated with fatigue, many railroad workers are unable to obtain adequate rest. This includes operating crewmembers who are protected by federal hours-of-service limitations but still struggle to obtain the necessary quality and quantity of rest. While workers have a responsibility to make decisions that allow them to access proper rest, planning for such opportunities is nearly impossible due to erratic train lineups, regularly being on call 24/7, and having just a few hours' notice to report for work.

To make matters worse, the Class I carriers have substantially reduced the size of their workforces since implementing precision scheduled railroading (PSR) at the behest of Wall Street investors. Unions representing railroad workers and individual workers have sounded the alarm on rail worker fatigue, which they believe is worsened by the deployment of PSR and the resulting push to do more work with nearly one-third fewer people on the job.

Compounding this are attendance policies for operating crewmembers at some of the Class I railroads that, on the face of it, allow workers to take time off for unexpected events or when feeling ill or fatigued but, in practice, may then punish workers for doing so. Such policies are not designed to encourage workers to make safety-based decisions about their readiness to operate ever-longer, ever-heavier trains. Rather, these policies could incentivize employees to show up to work fatigued in order to avoid reprimand or termination. They also ignore the unfortunate reality that crewmembers already have unpredictable and unreliable schedules, which makes this line of work difficult for many, even before policies that further restrict their lives and abilities to obtain proper rest.

Some claim that such attendance policies better assist carriers in running their railroads by reliably having crews on deck when they are needed. Our committee recently heard testimony from various shipper groups about how the lack of operating crews has negatively impacted rail service. While we are glad the railroad industry seems to recognize a shortage of crews can harm service, we can't help but to point out that at the end of 2021, the Class I railroads employed nearly one-third fewer train and engine staff compared to 2014, before PSR began to take hold. Now, the Class I railroads find they have cut too much and discuss their difficulties in recalling the workers they furloughed, retaining workers who have begun leaving mid-career, and recruiting new workers. Such attendance policies are not effective recruitment tools, especially when the national workforce has sent a clear signal that the quality of life is an important consideration in employment choices.

The prescription for solving operational troubles, self-imposed or otherwise, cannot degrade safety by increasing fatigue. Thankfully, in 2008, Congress stepped in to help address fatigue by requiring Class I railroads, railroad carriers providing intercity or commuter rail passenger transportation, and railroad carriers that have inadequate safety performance, to develop fatigue management plans to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries, and fatalities caused by fatigue. Such plans were required to be part of carriers' comprehensive railroad safety risk reduction programs—a recognition by Congress that mitigating worker fatigue is key to reducing safety risks.

The Notice of Proposed Rulemaking that the Federal Railroad Administration issued in December 2020 required railroads to identify and evaluate fatigue-related railroad safety hazards in their systems, determine the degree of risk associated with each hazard, and implement mitigation strategies to reduce the fatigue that safety-related employees experience and reduce the risk of accidents, incidents, injuries, and fatalities where fatigue is a contributing factor. We believe that attendance policies that not only contribute to fatigue but also penalize workers for taking off when fatigued or ill simply cannot co-exist with any serious fatigue risk management program.

The Congressional mandate to mitigate fatigue among crewmembers and other safety-related workers is now a decade late. Crewmembers and other craft workers have raised their concerns about being excessively exhausted at work, which is worsened by PSR. These workers cannot wait any longer, and neither can the communities through which trains travel.

To mitigate attendance policies that contribute to fatigue and help ensure all safety-related workers are rested and prepared to do the job safely, we respectfully urge your agency to issue the

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fatigue risk management program final rule without delay, require its swift implementation, and meaningfully enforce it to ensure that the 2008 bipartisan Congressional mandate is met.

Sincerely,

PETER A. DeFAZIO
Chair



DONALD M. PAYNE, JR.
Chair
Subcommittee on Railroads, Pipelines,
and Hazardous Materials

