

Editorial

FRA Proposed Rule Would Enable Trains to Run with Single Member Crews

On March 15th, The Federal Railroad Administration (FRA) published a *Notice of Proposed Rule Making* (NPRM) on the whole question of single employee train crews. This crucial safety question had first been raised at the FRA by former chief 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.*” The railroad industry immediately pounced upon this statement and within weeks, Mr. Szabo had announced his resignation as the agency’s head.

So when the FRA, under new head Sarah Feinberg, finally issued its Proposed Rule, nearly two years after Szabo had the unmitigated audacity to suggest that trains should have a minimum of two crew members, railroad workers and their unions — along with Railroad Workers United — were guardedly optimistic. But upon further inspection, the FRA’s Proposed Rule as written appears to RWU as fatally flawed. It outlaws *not one instance of single employee train operations!*

Rather than a rule that actually outlaws 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 b) railroads interested in implementing single crew operations can obtain a road map for doing just that! It is a classic case of Orwellian double-speak, whereby 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.

So let’s take a closer look at some of the offensive language in the Proposed Rule which reads: “*The FRA believes a railroad can expect to receive FRA’s special approval for a one-person train crew operation when the railroad has established that it is in compliance with all rail safety laws, regulations, and orders related to the proposed one-person operation; has set forth plans to address foreseeable safety hazards created when a train has less than two crew members by making changes to the railroad’s operating rules, procedures, or practices as necessary; and has an established strong safety culture and favorable compliance/accident history.*” And then there is this: “*Section 218.121 Purpose and scope. This section states that the purpose of this proposed subpart is to ensure that each train is adequately staffed and has appropriate safeguards in place when using fewer than two-person crews for safe train operations.*”

While ostensibly the FRA is saying it wants two employee train crews out of one side of its mouth, it is saying simultaneously that single employee train crews are fine ... as long as they are done safely (“*A minimum requirement of two crew members is proposed for all railroad operations, with exceptions proposed for those operations that FRA believes do not pose significant safety risks to railroads employees ...*”). Crucially, this is where we disagree with FRA. There is no “safe” way 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 even Class I railroads, moving long and heavy

trains (including hazardous materials), may apply to the FRA under to run these trains with a single crew member! This has that the failed BNSF — SMART Tentative Agreement of 2014, with its proposal for “master conductors” to assist trains operated with a lone crew member could perhaps one day soon be dusted off, dolled-up, meet the new FRA “safety” standards, and rear its ugly head once again. Only next time the carrier could claim it has the support and blessing of the FRA! Under this vague and contradictory language, it sounds in fact like any and all single employee train operations could be acceptable to the FRA if done “right”. We find this completely unacceptable.



On the surface, the FRA’s Proposed Rule appears to suggest that “A minimum requirement of two crew members is proposed for all railroad operations.” A closer reading of the Proposed Rule shows that rail carriers are free to initiate single employee crew operations if the FRA deems they can do it “safely”, rendering the rule fatally flawed in the eyes of Railroad Workers United.

Railroad Workers United encourages all railroad workers to protest this failure to ban single employee crews and to comment to the FRA before the deadline, May 15th, 2016. You may submit comments identified by the docket number FRA-2014-0033 by any of the following methods:

- **Online:** <http://www.regulations.gov>. Type in FRA-2014-0033; click on Comment Now; then follow the directions.
- **Fax:** 202-493-2251
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.

Instructions: All submissions must include the agency name (FRA), docket name and docket number or Regulatory Identification Number (RIN) for this rulemaking (RIN 2130-AC48).

We agree with former Director Joe Szabo: “*safety is enhanced with the use of a multiple person crew - safety dictates that you never allow a single point of failure.*” As such, unless and until the FRA Proposed Rule is amended and finalized to *outlaw* the operation of the vast majority of single employee train crews, the Proposed Rule will not get the support of this organization. ***No Single Employee Train Crews!***