FRA Grants “Relief” for Rail Carriers; Hell for Rail Workers

On March 26th, 2020, in response to a Petition from the Association of American Railroads (AAR), American Short Line and Regional Railroad Association (ASLRRRA) and American Public Transportation Association (APTA), the Federal Railroad Administration (FRA) has issued a 60-day emergency waiver for certain requirements of the FRA’s rail safety regulations, due to the COVID-19 pandemic. The petitioners, on behalf of their member railroads, requested relief from certain requirements of the Code of Federal Regulations (49 CFR Parts 213, 214, 217, 218, 219, 220, 228, 229, 232, 234, 236, 239, 240, and 242) on March 21st. The “relief” granted 4 days later by the FRA applies to ALL rail companies in the United States, whether they were party to the request or not.

The relief granted is supposedly conditioned on the existence of personnel shortages and other “constraints”, that can be shown as having a direct correlation to the effects of the COVID-19 pandemic, that might prevent a rail carrier from “timely” completing federally mandated railroad safety inspections, tests, and/or other requirements.

Many of the rules/regulations that railroaders have worked under - in many cases for decades if not their entire careers - will potentially no longer be enforced between now and late May (if not longer). Rail workers must now be at the ready, to be ordered to perform any one of a number of unsafe tasks, that yesterday would’ve been a violation of federal law, yet today, failure to carry them out could result in termination. In recent weeks, rail workers have been put in a “damned-if-you-do, damned-if-you-don’t” situation in recent weeks with regards to marking off sick. Now, these same workers are similarly placed in a precarious situation, being ordered to “violate” sacred rules and regulations upon threat of termination (insubordination) on the one hand, or proceed as directed to do something they know is intrinsically unsafe that could result in disaster.

Meantime, the FRA has to date refused to respond in such a fashion to the rail unions’ (Brotherhood of Locomotive Engineers & Trainmen and the SMART-Transportation Division) petition of March 24th, ignoring their pleas to - among other things - recall to service some of the thousands who have been laid off in recent months. Yet, while they remain in furlough status as the direct result of the rail carriers’ new operating plan – Precision Scheduled Railroading (PSR) - the railroads are clamoring about “labor shortages” and have been granted relief by the FRA. In fact, RWU has received reports of new furloughs initiated literally on the day that the FRA Waiver was announced!

If ever there was an “All hands-on-deck!” moment for railroad workers, this is it. We cannot sit back and allow the carriers and the government make us pay the price for their criminal lack of foresight and preparation in the face of this oncoming pandemic. There have been reports of health care workers on the front lines that have already paid the price with their health and lives, due to lack of basic PPE, which should have been ordered in massive quantities in February. Similarly, furloughed railroad workers could have and should have been reintegrated back into the industry in that same time frame. There is still time, of course, to do this, yet as The Highball goes to press, the railroad continues to furlough rail workers!

The rate of derailments, railroad worker fatalities, accidents and injuries was unacceptable before this FRA waiver went into effect. The proceeding years of PSR – while providing a massive drop in rail employment – concurrently produced a rise in the rate of accidents, injuries and fatalities. With the rail carriers now cut loose this spring to abrogate dozens, if not hundreds, of regulations in the name of “personnel shortages,” one shudders to think of the potential consequences. RWU demands that every politician forcefully denounce this charade for what it is, and demand that the Class One carriers recall to service their furloughed employees, rather than unnecessarily compromise the safety of rail workers and the public.

We call upon the rail union leadership to heed this desperate call for solidarity, unity and action. The carriers have betrayed both rail workers and the nation, putting their operating ratio ahead of the health and well-being of both their employees and the general public. We need to educate ourselves, each other, and our allies on the real-time implications and applications of this dire situation. We need to organize ourselves into a powerful force of resistance. Could it be time to consider all options on the table, regardless of whether they fit neatly into the carriers’ and the government’s proscribed terms of engagement? The unions have the resources, financial and otherwise to draw attention to this travesty, and bring rail labor together. And we have a dedicated army of rank & file activists ready, willing, and able to be mobilized.

A crew boards a Union Pacific train in California. While thousands of train & engine service workers remain furloughed across the nation - the result of “Precision Scheduled Railroading” – the rail industry pleads for relief to ignore vital safety rules due to a manpower “shortage.” On March 26th, the Feds granted the industry request to throw out certain sections of 14 Parts of the Federal Code.