



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 12 2011

Mr. Stephen Bruno
Director of Regulatory Affairs
Brotherhood of Locomotive Engineers and Trainmen
25 Louisiana Avenue NW
Washington, DC 20001

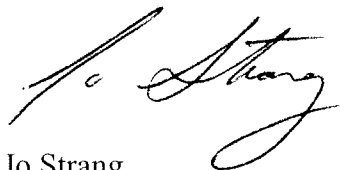
Dear Mr. Bruno:

In your November 2, 2010, letter concerning the application of the hours of service laws, you expressed concern with a Norfolk Southern Railway Company policy, implemented in response to the amendments to the hours of service laws made by the Rail Safety Improvement Act of 2008 (RSIA), and conversations with a Federal Railroad Administration (FRA) Regional Administrator, which prevented train employees from calling the railroad carrier during certain employees' statutory minimum off-duty periods in order to establish a time to report for duty. In response, the FRA Office of Railroad Safety sent a letter dated December 7, 2010, in which it was stated that if a train employee contacted a railroad carrier during such a rest period to establish a time to report for duty, it would be viewed as an activity at the behest of the railroad and therefore as a prohibited interruption in that employee's statutory minimum off-duty period. The letter was sent by FRA staff without top-level review, and does not accurately reflect the position of the Office of Railroad Safety.

FRA's interim statement of agency policy and interpretation of the hours of service laws as amended by RSIA, published at 74 Federal Register 30665 (June 26, 2009), permits train and signal employees to voluntarily discuss matters with a railroad carrier during their statutory minimum off-duty periods. The interim interpretations are silent on whether there are any limits to the matters that may be discussed, and do not specifically address whether such an employee is permitted to contact the railroad carrier to establish a report-for-duty time. FRA will consider this issue in the development of its final statement of agency policy and interpretation. Pending the issuance of that statement, FRA will not write violations to railroads for allowing their train and signal employees to contact the railroad during such rest periods to establish a time to report for duty.

I appreciate the opportunity to review this matter and look forward to working with you on other safety issues of importance to you and your membership.

Sincerely,

A handwritten signature in black ink, appearing to read "Jo Strang". The signature is written in a cursive style with a large, sweeping initial "J".

Jo Strang

Associate Administrator for Railroad Safety/Chief Safety Officer