

## **FRA clamps down on use of electronic devices**

CLEVELAND, October 3 — In the aftermath of the most deadly passenger rail accident in more than a decade, and just days after the National Transportation Safety Board reported that the engineer of one of the trains involved in the September 12 tragedy had sent and received dozens of text messages while on duty, the Federal Railroad Administration ("FRA") is issuing an Emergency Order that severely restricts the use of cell phones and other wireless communication and personal electronic devices by operating crews.

Emergency Order No. 26, which is scheduled to be published in the Federal Register on Tuesday, October 7, goes into effect on Monday, October 27, which is 20 days after publication. The Emergency Order governs operating employees' use of mobile telephones (commonly called cell telephones or cell phones), other electronic devices or electrical devices, and other portable electronic devices (such as portable digital video disc (DVD) players, radio receivers, and audio players) capable of distracting a railroad operating employee from a safety-critical duty. It does not restrict use of the railroad radio or working wireless communications already subject to 49 CFR Part 220.

The uses of electronic devices that are restricted by the Emergency Order include:

- the use of a mobile telephone or another electronic or electrical device to conduct an oral communication;
- placing or receiving a telephone call;
- sending or reading an electronic mail message or text message;
- playing a game;
- navigating the Internet;
- playing, viewing, or listening to a video;
- playing, viewing, or listening to a television broadcast;
- playing or listening to a radio broadcast other than a radio broadcast by a railroad;
- playing or listening to music;
- executing a computational function; and
- performing any other function that is not necessary for the health or safety of the person and that entails the risk of distracting the employee from a safety-critical task.

All personal electronic devices — electronic devices not supplied by the railroad — must be turned off and any electronic earpieces must be removed while a train is moving; the only exception is that, when radio failure occurs, wireless communication devices may be used in accordance with railroad rules and instructions. Personal electronic devices also must be turned off with electronic earpieces removed when duties (1) require an operating employee to ride rolling equipment during switching operations, or (2) require any railroad employees to be on the ground, including any situation where other employees of the railroad are assisting in preparation of the train (e.g., during an air brake test). Operating employees may not use personal electronic devices for any purpose other than voice communications.

The use of a railroad-supplied electronic device by a locomotive engineer (including a remote-control locomotive operator) is prohibited while the train is moving or when duties (1) require an operating employee to ride rolling equipment during switching operations, or (2) require any railroad employees to be on the ground, including any situation where other employees of the railroad are assisting in preparation of the train. An operating employee other than a locomotive engineer may use a railroad-supplied mobile telephone or remote computing device in the cab of a locomotive for an authorized business purpose, after a safety briefing, provided that all assigned personnel on the crew agree that it is safe to do so.

A railroad operating employee may use a railroad-supplied electronic or electrical device for an approved business purpose while on duty within the body of a passenger train or railroad business car. However, use of the device shall not excuse the individual using the device from the responsibility to call or acknowledge any signal, inspect any passing train, or perform any other safety-sensitive duty assigned under the railroad's operating rules and special instructions.

For freight train crewmembers, a railroad operating employee may not use a railroad-supplied electronic or electrical device for an approved business purpose while on duty outside the cab unless the following conditions are met: (1) the employee is not fouling a track; (2) no switching operation is underway; (3) no other safety duties are presently required; and (4) all members of the crew have been briefed that operations are suspended.

The Emergency Order does not restrict an operating employee from using the digital storage and display function of a personal or railroad-supplied electronic device to refer to a railroad rule, special instruction, timetable or other directive. In addition, operating employees may use wireless communication devices as necessary to respond to an emergency situation involving the operation of the railroad or encountered while performing duties for the railroad.

In addition to being subject to discipline or dismissal for violating a railroad operating rule governing the use of electronic devices, willful violation of the Emergency Order could subject the violator to a substantial civil penalty. FRA also could move to disqualify a violator from performing safety-sensitive service temporarily or permanently.

BLET National President Ed Rodzwick endorsed the Emergency Order on behalf of BLET members. "We applaud the NTSB for bringing this information forward promptly, and the FRA for acting quickly," Rodzwick said. "Sadly, the use of electronic devices has literally become a life and death issue for all operating employees and compliance with the Emergency Order must be absolute," added Rodzwick.