

Joe McHugh  
Vice President, Government Affairs



January 19, 2012

Honorable Tom Latham  
Chairman  
Transportation, Housing and Urban  
Development, and Related Agencies Subcommittee  
House Appropriations Committee  
2358A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Latham:

As part of the ongoing discussion of Amtrak's overtime issue, I wanted to take the opportunity afforded us by the closing of the year to deliver a brief summary to you of our overtime situation. As you know, the Appropriations Act which was signed into law on November 18 empowered our President and Chief Executive Officer to waive the legislated cap on overtime. While Amtrak is funded on the basis of the federal fiscal year, our payroll information is accrued on a calendar-year basis. As such, we will be providing you with information that is calculated on a calendar-year basis for those employees affected by this provision. In other words, the information we provide will reflect overtime accruals above \$35,000 per employee from January 1, 2012, to December 31, 2012.

At Amtrak, we have generally found that our overtime costs are heavily concentrated in the engineering and transportation departments. Overtime costs are driven by service and operational needs. These needs vary by department, and I will provide context for both, starting with the Engineering Department.

As you know, 2011 marked the end of an extraordinary three year period of capital investment in the Amtrak system, much of it supported by the American Recovery and Reinvestment Act (ARRA). We have described this program several times, most recently in our grant request, so I will not discuss it in depth here, but it should be understood that it involved heavy engineering work up and down the Northeast Corridor (NEC). This entailed a significant effort on the part of our entire company, but particularly those employees in our engineering force who maintain the track and electric traction system, and this effort (and the number of employees whose overtime exceeded the current cap) peaked in 2010; totals for 2011 are slightly lower. Half of the employees who exceeded the annual overtime cap level of \$35,000 in 2011 and slightly more than half of the costs were associated with the Engineering Department. About half of these totals fell into four craft categories: maintenance of way supervisors, signal maintenance staff, those employees who work on the right-of-way and those who maintain the electric traction system. Between 2010 and 2011, the number of, 1,285 employees whose overtime payments exceeded \$35,000 fell by nearly 13 percent.



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The volume of work and tight timeline required by the ARRA were significantly larger than anything that Amtrak has undertaken in recent years. Significant use was made of contractors for many projects, such as bridge installations and replacements. While it is not possible to contract out work if such contracting would result in the furloughing of employees who are covered by collective bargaining agreements, the volume of work entailed a significant amount of effort in and around the railroad right-of-way, which meant that those particular crafts – which furnish the employees who are trained to protect facilities and structures and provide right-of-way or flag protection required by FRA regulations for workers on or near the track and electrical system – were in great demand. This protection work requires trained employees, particularly in the Northeast Corridor, for overhead electric systems such as Amtrak uses to power its trains are fairly rare in the United States. It takes 24-30 months to hire and train an employee for some highly skilled technical positions in these fields, and that kind of lead time meant that in some craft areas our work force was, within the timeframe required for the ARRA, highly inelastic; the only way to obtain more work from the existing force was to work additional hours which triggers overtime.

This problem is particularly compounded by the volume of traffic on the Northeast Corridor. As you know, during the rush hour, trains enter the tunnels under the Hudson River between New York and New Jersey at 150 second intervals. The vast majority of these trains are commuter trains, and this makes the most heavily trafficked segments (which naturally incur significant wear and tear as a result) essentially inaccessible during the work week. Amtrak has addressed this challenge by using planned “55 hour outages” that allow our construction forces to occupy a given segment of the right-of-way over the weekend. Under these circumstances, the greatest flexibility for shift work is obtainable only on Saturdays and Sundays. Working hours are restricted to 16 hours per day for safety reasons, and we cannot require employees covered by certain agreements to work in the most demanding position for which they are trained, to ensure that we obtain the benefit of our training investment. The first right of refusal for overtime work is handled on a seniority basis, as stipulated in our collective bargaining agreements, with the senior qualified person having the right of first refusal.

Further complicating and enlarging the cost of overtime is the need for so-called “reimbursable” work, involving engineering work that is not a part of an Amtrak program that nevertheless impinges (or even potentially impinges) on our right-of-way. The use of heavy engineering equipment within a specified distance of the right-of-way requires extensive coordination with the railroad operating department and protection from a flagman and others who perform safety functions such as grounding out high voltage systems, and preserving roadbed and structural stability and the integrity of buried signal lines. These functions must be provided by Amtrak, although the cost is borne by the agency or the entity doing the work. The list of projects that fit this description is vast, and includes work on public roads and bridges, utility systems such as gas, water and electric lines, and even construction or demolition projects that are adjacent to the right-of-way. This work is termed “reimbursable” because the costs to Amtrak for our



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labor force are borne by the third parties who need the help – commuter authorities, municipalities, utilities, and in some cases, businesses.

As a consequence of these requirements, the cost of overtime fell heavily on the workforce of our Engineering Department. I should note parenthetically that Amtrak crews operating on the right of way work under a very different regime from that prevailing on the freight railroads, which have a significantly lower traffic density. Federal regulations require roadway worker protection, and there are multiple possible approaches. While freight train crews are generally required to obtain permission from the on-site foreman to approach a work zone, the traffic density on the NEC makes this unworkable. Instead, Amtrak chooses to use a system that allows trains to operate through work zones at restricted speeds (typically 80mph). Train crews are informed in advance of work zones and posted speed restrictions (which in many segments are now “backstopped” with our ACSES Positive Train Control system). To allow construction and maintenance work to proceed adjacent to “live” trains, flagmen are posted to ensure that work crews are warned in advance of an approaching train, making the evacuation of the right-of-way in advance of its arrival the responsibility of the work gang. Between 2009 and 2011, we undertook literally thousands of jobs requiring flag protection, and we did so without a single incident or fatality resulting from failure to flag an oncoming train or properly warn a workforce of its approach.

The other major source of significant overtime is found in our Transportation Department, particularly with train and engine crews assigned to the Northeast Corridor. Train crews on the NEC generally sign up for duty at one terminal, operate a train to another terminal, leave the train, and after a layover period, “turn” for a train back to their initial terminal point. The main stem of the NEC is divided in half for these purposes, with crews of through trains between Boston and Washington terminating at New York. More than two thirds of the jobs in the Transportation Department that exceed the overtime cap are located on the NEC, and the majority of the overtime hours that accrue are the result of a deliberate decision to accept overtime in lieu of the even more expensive alternative of adding an additional job, which would create a corresponding requirement for an additional employee who would have to be hired and trained. Similar cases also apply to long distance service. Amtrak has made maximum use of train crews (within safe limits) on our long distance train routes, which means crew bases are more widely spread out. This raises overtime costs, but allows us to get by with fewer crews and fewer crew bases, and this helps lower operating costs.

It should be noted that for both engineering and transportation specialties, it is often a much more economical proposition to pay overtime than it is to hire additional employees. Benefits and Railroad Retirement payments are kept lower (they are 54.13 percent of “straight time” costs, but only 18.6 percent of overtime costs). The need to cover vacation periods and holidays is also a contributor to costs, accounting for an estimated 15 percent of total overtime costs, while another 5-10 percent of total costs



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are associated with so-called “non-productive hours” – important requirements such as training, or unavoidable challenges that preclude work, such as inclement weather or operational disruptions.

As you know, Amtrak takes any question of financial efficiency very seriously. We will work hard to implement the requirements of this legislation, and to comply with both the letter and the spirit of the law. We will provide regular reports to Congress.

Please feel free to contact me if you have any questions, or if there is anything else we can do to ensure that you are receiving timely and informative updates on this situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe McHugh", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail that extends to the right.

Joseph H. McHugh

*Vice President*

*Government Affairs and Corporate Communications*