



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference — International Brotherhood of Teamsters

NATIONAL LEGISLATIVE OFFICE

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JOHN P. TOLMAN

Vice President and

National Legislative Representative

December 15, 2006

Docket Clerk
DOT Central Docket Management Facility
Room PL-401
400 7th Street, SW (Plaza Level)
Washington, DC 20590-0001

Re: Docket No. FRA-2006-26029

Dear Docket Clerk:

On September 27, 2006, Alaska Railroad Corporation (“ARRC”) petitioned the Federal Railroad Administration (“FRA”) for a waiver from compliance with various requirements set forth in Title 49 of the Code of Federal Regulations, in connection with its Collision Avoidance System (“CAS”), and the petition was assigned the above-referenced DOT DMS Docket Number. *See* DOT DMS FRA-2006-26029-1 (“Petition”). On November 15, 2006, FRA published notice of the filing of ARRC’s petition, soliciting comments thereon from interested parties. *See* FRA-2006-26029-8.

These comments are submitted by the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (“BLET”), which is the duly designated and recognized collective bargaining representative for the craft or class of Locomotive Engineer employed on all Class I railroads. BLET also represents operating and other employees on numerous Class II and Class III railroads. Consequently, ARRC’s petition would have a significant impact upon our members. For the reasons set forth below, BLET opposes granting the requested relief, unless the conditions set forth below are satisfied.

FRA’s Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances, which are set forth in Subpart H of Part 236, prescribe an exacting set of protocols for processor-based signal and train control systems, which requirements govern ARRC’s proposed CAS. The foundation documents mandated by Part 236 are a Railroad Safety Program Plan (“RSPP”) and a Product Safety Plan (“PSP”). 49 CFR §§ 236.905, 236.907.

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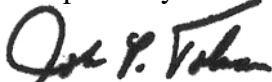
ARRC does not represent its petition to constitute a RSPP, *per se*,¹ and acknowledges that its PSP has yet to be completed. Indeed, the petition is — by ARRC’s admission — merely “an informational filing to allow field testing to be conducted prior to completion of the PSP complying with the requirements set forth in 49 CFR 236.913(j).” Petition at p. 1. Accordingly, any waiver granted by FRA should be for minimal duration and should be most narrowly drafted.

We note that ARRC has requested a waiver from compliance with the Section 217.11 requirement concerning its program of instruction on operating rules and associated recordkeeping. Id. at p. 3. While we understand ARRC’s contention that changes to its General Code of Operating Rules “(GCOR)” will not be finalized until procedures are refined and modified as a result of testing, Sections 236.921 and 236.925 through 236.929 establish training standards specific to a Subpart H system. We contend that any relief granted with respect to Section 217.11 does not relieve ARRC of its training obligation under Subpart H.

ConOps Section 5.6.5 indicates that CAS may be configured to provide for automatic horn sequencing at highway crossings. *See* FRA-2006-26029-3 at p. 5-37. As FRA knows, failure to sound the locomotive horn at a grade crossing, or failure to sound the horn in the proper pattern, exposes the violator to individual liability for a civil penalty. 49 CFR Part 222 at App. G. Because there is no indication that this option is equipped with a warning prior to automatic sequencing of the horn, and because the locomotive engineer’s judgment as to when to begin sounding the horn may differ from how the on-board computer is programmed, we request that any waiver granted by FRA specifically state that activation of the automatic sequencing feature will be deemed as crew compliance with 49 CFR Section 222.21.

We also note that FRA is currently conducting a detailed technical review of the informational filing and petition for temporary relief. *See* FRA-2006-26029-7. Further, data collection has been authorized in limited circumstances, and a senior test monitor has been appointed. Id. These actions on FRA’s part follow consultation between FRA and ARRC that has been ongoing for a number of years. The result of that collaboration is demonstrated by the detail included in documents submitted by ARRC for the docket. Accordingly, we will — for the present — limit our request for conditions to those specified above, and sincerely appreciate FRA’s most serious consideration.

Respectfully submitted,



Vice President and National Legislative Representative

¹ Rather, it appears that ARRC’s Concept of Operations (“ConOps”) document is intended to serve that purpose to some degree. *See* FRA-2006-26029-3.

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cc: Don M. Hahs, National President
Thomas A. Pontolillo, Director of Regulatory Affairs