



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*

April 12, 2007

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

Re: Docket No. FRA-2006-26756

Dear Docket Clerk:

On December 7, 2006, Canadian National Railway (“CN” or “Petitioner”) petitioned the Federal Railroad Administration (“FRA”) for a permanent waiver from compliance with the requirements of 49 CFR Section 236.410 pertaining to entering signal or electric switch locks where a train enters main track in CTC territory at a hand-operated switch at certain points on the line of road of one of its U.S. subsidiaries, the former Illinois Central Railroad. *See* DOT DMS FRA-2006-26756-1 (“Petition”). On February 28, 2007, FRA published notice of the filing of CN’s petition, soliciting comments thereon from interested parties. *See* FRA-2006-26756-3.

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 CN. Consequently, CN’s petition would have a significant impact upon the safety of our members. For the reasons set forth below, BLET opposes granting the requested relief.

Preliminarily, we wish to state our agreement with, and endorsement of, the comments in opposition to the petition filed by the Brotherhood of Railroad Signalmen (“BRS”) on March 20, 2007. *See* FRA-2007-26756-4. So as not to unnecessarily burden the record, we incorporate those comments by reference herein without repeating them in detail. In addition, we wish to address one other specific point.

Petitioner’s proposed solution would not provide an equivalent level of safety; rather, the solution runs counter to the safety theory underlying the current FRA requirement. For operations

DOT Docket Clerk
April 12, 2007
Re: Docket No. FRA-2006-26756
Page 2

covered thereby,¹ Section 236.410 mandates the use of an electric switch lock on main tracks in CTC territory that (1) displays the most restrictive aspect on any signal governing entrance to the block where the switch is located, and (2) permits operation of the switch **only after** the prescribed time delay has lapsed.

The purpose of the delay between “dropping” the signal and the ability to operate the switch is to eliminate the possibility that another train — unaware of the operation of the switch — will approach the switch at greater than restricted speed when it is lined in a diverging position. This intent is met by the fail-safe nature of the timing mechanism that locks out operation of the switch, and ensures that an opposing movement **cannot** enter the track on which the other train is standing during the period of the electronic time delay.

Petitioner’s alternative proposes to “drop” the signal by operation of the switch, which would immediately place any opposing movement in direct conflict with the train planning to enter the main track at the switch. The margin of safety provided by the switch lock timer is eliminated without being replaced by an alternative that provides an equal or greater margin of safety.

Petitioner proposes promulgating an operating rule requirement that “the switch must immediately be restored to normal position should an approaching movement become evident.” Petition at p. 2. This response is woefully inadequate for reasons that are obvious to us and should be just as obvious to the Railroad Safety Board.

CN’s proposed rule assumes that lines of sight and visual conditions at each of the 80 switches will be sufficient at all times and under all circumstances to ensure that the switch can be restored to the normal position without compromising the safety of the crewmember operating it. This is unknowable, if not impossible. Furthermore, at the present time FRA is engaged in the process of federalizing certain railroad operating procedures, including operation of hand-thrown switches, that would render CN’s proposed “solution” impractical, if not highly dangerous.

In a Notice of Proposed Rulemaking published on October 12, 2006, FRA designated as Section 218.103(f) a requirement that “[e]xcept during continuous switching operations, when an employee lines a hand-operated switch to let equipment enter or leave the main track, the employee shall move at least twenty (20) feet away from the switch and not return to the switch until the movement is complete.” 71 FR 60411. For Petitioner’s “alternative” to not conflict with this proposed FRA rule, the following sequence must occur in order for a collision to be avoided:

- After operating the switch, the crewmember must move to a location at least 20 feet away from the switch, all the while observing for a conflicting movement on the main track.

¹ As BRS correctly points out, Section 236.410(a) provides Petitioner with four operational alternatives to installing electric switch locks. *See* FRA-2007-26756-4 at p. 3.

DOT Docket Clerk

April 12, 2007

Re: Docket No. FRA-2006-26756

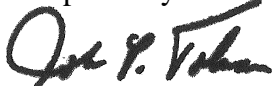
Page 3

- The conflicting movement must be observed from a distance sufficiently far away from the crewmember's vantage point to permit the crewmember to return the 20+ feet to the switch, restore the switch to the normal position, and again move at least 20 feet away from the switch before the conflicting movement nears the switch.

If either the line of sight or the ambient visibility at the switch location does not permit this sequence to fully unfold, the crewmember is faced with the Hobson's choice of (1) placing himself/herself at risk of physical injury or death while violating FRA's impending regulation, (2) attempting some method of stopping the approaching the train, or (3) running away from a potential collision between the two trains.

The purpose of Section 236.410 was to eliminate such potential hazards by electronically locking the switch until the prescribed period of time delay was fulfilled. Amazingly, CN's petition attempts to turn the clock back to the period **prior to promulgation of this requirement** the incredible argument that it is outdated. We believe that Petitioner's alternative is no alternative at all, because it presents an unacceptable hazard, and we strongly urge FRA to deny the petition in its entirety.

Respectfully submitted,



Vice President and National Legislative Representative

cc: Grady C. Cothen, Jr., Esquire, FRA Deputy Associate Administrator for Safety Standards
and Program Development
All CN General Chairmen
All CN State Legislative Board Chairmen
Thomas A. Pontolillo, Director of Regulatory Affairs