



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

September 13, 2007

Docket Clerk
DOT Central Docket Management Facility
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, Southeast
Washington, DC 20590

Re: Docket No. FRA-2007-28339

Dear Docket Clerk:

On May 22, 2007, Union Pacific Railroad Company (“UP” or “Petitioner”) petitioned the Federal Railroad Administration (“FRA”) for a limited waiver from compliance with the requirements of 49 CFR Part 215 and Section 232.205. *See* DOT DMS FRA-2007-28339-1 (“Petition”). On August 3, 2007, FRA published notice of the filing of UP’s petition, soliciting comments thereon from interested parties. 72 FR 43321.

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 UP. Consequently, the instant petition would have a significant impact upon our members. For the reasons set forth below, BLET respectfully requests that FRA conditions any relief granted as proposed herein.

Specifically, UP seeks relief from the FRA regulations identified for movements from the KCSM interchange point at milepost 412.5 on the Laredo Subdivision and UP’s yard at Port Laredo, Texas, a distance of 11.6 miles. Petition at p. 1. In its petition, UP proposes a variety of alternatives to the requirements of Parts 215, 229 and 232. Id. at pp. 1–2.

The increase of cross-border traffic in recent years poses a challenge because the infrastructure was built during a time when traffic between the U.S. and Mexico was only a small fraction of what it is today and what is predicted for the future. The appropriate disposition of the instant petition necessarily requires a balancing of (1) the safety processes required by applicable FRA

regulations, (2) the need to expedite movements to the extent permitted by safety considerations, and (3) the interests of the local community.

In our view, the cornerstone of this balance should be FRA's stated policy regarding the "importance of uniform and consistent regulation." *See, e.g.*, FRA-2006-25630-3 (citations omitted). Accordingly, we believe that the following conditions should govern in any waiver granted in this matter:

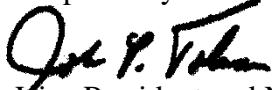
- At the KCSM interchange point, all cars containing hazardous material must be inspected at ground level for required markings, labels, placards, securement of closures, and leakage.
- A set and release of brakes is observed on the rear car prior to departure from the KCSM interchange point; 49 CFR Section 232.211(c) may be used in fulfillment of this requirement if the train is appropriately equipped. If locomotives are changed at the KCSM interchange point, this test shall not be performed until after the U.S. crew has coupled their locomotive to the train.
- If the inbound locomotives are not changed at the KCSM interchange point and the lead locomotive is overdue for its calendar day inspection, the locomotive engineer will ensure that the headlight, horn, and bell are operative.
- An accurate train consist and proper hazardous material documents must be presented to the U.S. crew before departure from the KCSM interchange point.
- The rear of the train must be equipped with a compliant end-of-train device.
- The movement between the KCSM interchange point and UP's yard at Port Laredo will not exceed twenty (20) miles per hour.
- Upon arrival at UP's yard at Port Laredo a Class I brake test and any other required Part 215 and/or Part 229 inspection or test will be performed before any further movement is made.

We urge the Railroad Safety Board to conform Petitioner's proposed conditions to the above in granting a waiver. Our proposed conditions are essential for providing a level of safety equivalent to current operations, and are wholly consistent with ongoing rulemakings with respect to rail security. Moreover, the benefits of these requirements far outweigh any cost or inconvenience involved.

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Furthermore, for sake clarity, the above conditions would be modified as necessary if any trains are inspected at UP's yard in Laredo, itself. Likewise, performing the required inspections at any properly equipped location between the KCSM interchange point and UP's yard at Port Laredo — for example, at Limo Siding, as we proposed earlier this year — also would modify the conditions as necessary. UP's cross-border operation at Laredo has been the subject of controversy in recent years, and it is our sincere hope that this matter provides for a resolution that is fair to all.

Respectfully submitted,



Vice President and National Legislative Representative

cc: Grady C. Cothen, Jr., Esquire, FRA Deputy Associate Administrator for Safety Standards
and Program Development
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