



SMART-TRANSPORTATION DIVISION

BEFORE THE U.S. DEPARTMENT OF TRANSPORTATION

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FEDERAL RAILROAD ADMINISTRATION

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FRA 2016-0063

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September 25, 2017

These comments are on behalf of the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART). The SMART Transportation Division, formerly the United Transportation Union, is an organization representing approximately 125,000 transportation employees with active rail members working in all operating crafts including engineers, conductors, trainmen, switchmen and yardmasters.

This is in response to the Strasburg Railroad Company (SRC) petitioning the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 222.21 - FRA-2016-0063.

The SRC seeks a waiver from 49 CFR 222.21 from being mandated under all conditions to sound the locomotive horn when a locomotive approaches a public highway-rail grade crossing. They request that they be able to some use judgement and not sound the horn for situations when there is livestock near the crossing and the crossing is observed to be clear and the crossing protection is activated.

As the petitioner states, they operate historic and excursion trains and switching operations on Class 2 main track located in Amish farmland where horse and mule teams are used for farming and transportation. SRC's main track has four public highway crossings, all protected by gates and flashing lights. All crossings are over two lane roads and traffic is light.

SRC requests this relief to avoid causing incidents and injuries involving Amish animal teams, equipment, and people, because the animals may be startled by the train horn, whistle or bell. While many of the Amish animals are accustomed to the steam locomotives and railroad equipment; animals are unpredictable and can be spooked by a train, particularly when the horn is sounded or the bell is rung when the locomotive is very close to them. SRC has observed incidents where animals were startled by the whistle and/or bell of the locomotive, resulting in damage and injury to the animals and individuals.

Since 1958, it has been common practice for SRC crews to refrain from blowing the whistle or ringing the bell when they see a team nearby. Determination of the status of the crossing protection, location of the animals, and whether motor vehicles are present all are considered by an SRC crew when deciding whether to occupy a crossing without using the bell or whistle. In these past 59 years, there have been no incidents at crossings as a result of not sounding the horn, whistle or bell.

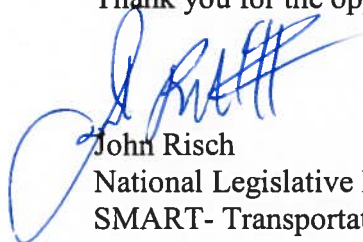
The SMART Transportation Division is writing in support of the SRC's petition. SRC's request is not only reasonable, this is the way train crew members have conducted themselves for the past 140 years prior to the enactment of mandatory whistle rules.

This isn't just an issue for Amish country – it's an issue for all of rural America where farmers oftentimes herd livestock near a crossing and where people ride horses near the railroad track. Our nation's operating crews should all be allowed the discretion in sounding or not sounding a locomotive horn when these situations arise.

Consider these comments as not only in support of SCR's petition, we further ask that SCR's waiver request be extended to all railroads in the United States, with the caveat that railroads also be prohibited from disciplining crews from using their discretion in these situations.

For these reasons, we are in support of the petition as presented and urge FRA to approve this waiver request and apply the waiver nationwide.

Thank you for the opportunity to comment.



John Risch  
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SMART- Transportation Division