

Agenda Date: December 11, 2002  
Item Number: B1

**Docket:** TR-020348

Company Name: WestFarm Foods regarding track operated by The Burlington Northern and Santa Fe Railway Co.

Staff: Scott Barrett, Rail Safety Inspector  
Mike Rowswell, Rail Safety Manager

**Recommendation:**

Enter an Order Granting an Exemption from Clearance Rules pursuant to WAC 480-60-020, with conditions.

**Background:**

WestFarm Foods owns a private business in Lynden, Washington. A railroad spur owned by the company traverses the company's property and enters an enclosed space where a loading dock is situated on one side of the tracks and a wall is on the other side of the tracks. The Burlington Northern and Santa Fe Railway Company provides rail cars that are loaded at the dock, and it also spotted the cars until about March 2002.

The clearances in this matter involve loading docks less than 40 inches high. They also involve building walls, and appurtenances that extend from them. Side clearance rules in WAC 480-60-050 require that walls and any appurtenances attached to the walls be at least 8 feet 6 inches from the track centerline. Loading docks that are 40 inches or less in height must be at least 7 feet 3 inches from the track centerline.

There are three areas that have impaired clearances along the spur. They are identified in Attachment 1 as the "Lynden Feed" clearance, the "West of Depot Road" clearance and the "Warehouse Loading Dock" clearance.

The "Lynden Feed" clearance is illustrated in attachment 2. The dock side of the tracks is within clearance rules because the dock is less than 40 inches in height and more than 7 feet 3 inches from track centerline. The opposite side has a wall

that must be 8 feet 6 inches from the track centerline; however, it is only 8 feet 4  $\frac{3}{4}$  inches away.

The "West of Depot Road" clearance is illustrated in Attachment 3. The building to the north (right hand side) is only 7 feet 3  $\frac{3}{4}$  inches from the track centerline, but it should be 8 feet 6 inches away.

The major problem occurs at the "Warehouse Loading Dock" clearance, which extends from the entrance shown in Attachment 1 to the back of the building. It is illustrated in Attachment 4. A railroad employee was severely injured several years ago when he was crushed between a moving rail car and the loading dock. The loading dock is less than 40 inches high but is only 5 feet 4  $\frac{3}{4}$  inches from the track centerline. It should be at least 7 feet 3 inches away. Appurtenances on the wall on the other side should be 8 feet 6 inches from track centerline, but some of them are only 6 feet 2  $\frac{3}{4}$  inches away.

This matter was brought before the Commission at its open meeting on October 23, 2002. It was removed from the consent agenda because the United Transportation Union (UTU) filed an objection, and because an attorney appeared to speak against the petition. The Commissioners requested that staff explore the issues further after hearing the details of the accident mentioned above.

### **Discussion:**

Scott Barrett of the Commission rail section investigated the petition prior to the October 23, 2002 open meeting. Scott has over 25 years experience working in the rail industry, including switching in areas like the WestFarm Food facility in Lynden. He is also certified by the Federal Railroad Administration to enforce federal laws and rules relating to Operating Practices. After visiting the site, he formed the opinion that the facility could be switched safely if proper notice and warning was provided to railroad employees. He also believes that it is much safer for railroad employees to move rail cars in and around the facility rather than industry employees.

Exemptions from clearance rules can be granted if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. In this matter, there are no specific statutes involved. The public interest is the economic benefit from railroads providing service to private companies. The

purpose of the regulation is to protect railroad employees from injury or loss of life.

If the exemption is not approved, it is likely that the industry will not be served by rail, and shipping costs to the industry will increase. Although the railroad can still drop cars without entering the low clearance areas, the cars would have to be moved by industry personnel. They would need an exemption from Labor and Industry clearance rules, which is unlikely because the industry personnel are less knowledgeable about rail movements and keeping themselves safe than railroad personnel.

The major question is whether a procedure can be developed to switch the industry safely despite the close clearances. Usually, notice and warning signs are sufficient, and are the industry standards. However, the accident mentioned above indicates there may be additional considerations that need exploring. The starting point was to determine how the accident occurred.

The accident occurred because of the close clearance on the loading dock side of the train, and because the victim was walking on the tracks about a foot behind a moving train. Shortly after the accident, the Federal Railroad Administration released its Switching Operations Fatality Analysis. One of the major causes of fatalities during switching operations was found to be employees being on the tracks within fifty feet of unsecured rail cars. Railroads adopted rules to eliminate this cause of accidents. If they had been in effect at the time of the accident, it wouldn't have occurred. An accident is extremely unlikely if an employee does not have to walk at track level during the switching operation within the building with the loading dock.

In order to determine whether is possible for switching to occur without a person being in harms way, two representatives of the United Transportation Union, Commission Staff, the BNSF and WestFarm Foods, and the victim met at the industry facility in Lynden. The group walked through the entire facility and ended up at the loading dock where the accident occurred. At that point the parties negotiated an agreement. After determining that no one had to be on the tracks in an unsafe area inside the dock area, and that there was plenty of room on the dock to walk safely during switching, everyone's concern changed to ensuring that railroad crews unfamiliar with the site be provided with detailed instructions before switching the facility.

Everyone agreed that the facility could be switched safely if the following conditions are imposed in addition to those originally proposed by Commission Staff:

1. Railroad employees remain on the loading dock during switching operations, except under strictly controlled movements.
2. A yellow line is painted on the dock denoting a three-foot walkway that will never be obstructed.
3. A flashing red light is installed that railroad employees can operate to alert forklift drivers not to operate in the dock area.
4. A detailed procedure for switching the industry is written, laminated and stored in a railroad lock box at the site and where train crews come on duty.

A procedure has been prepared and reviewed by all parties. All agree that the conditions and the procedures provide sufficient safety for the industry to be switched without endangering employees.

**Conclusion:**

Enter an Order Granting an Exemption from Clearance Rules pursuant to WAC 480-60-020, with conditions.

Attachments