



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference-International Brotherhood of Teamsters

NATIONAL DIVISION

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DON M. HAHS
National President

Hand Delivered

June 10, 2004

Ms. Betty Monro,
Deputy Administrator
Federal Railroad Administration
1120 Vermont Avenue, N.W.
Washington, D.C. 20590

Dear Ms. Monro:

We are pleased to note that you will be the new Acting Administrator for FRA, and we look forward to working with you in the coming months. I would like to arrange a meeting with you this month, if possible, to discuss items of mutual interest. I will be in Washington, D.C. on June 22 and 23, and I hope one of these dates will be amenable to you.

We hope to focus on the issue of Remote Control Locomotives. As you know we have some concerns with this technology, and we also have questions on the preliminary report to Congress that the FRA submitted recently.

A few of the main questions on which we would like to open a dialogue with you and your staff include:

1. Given the inherent difficulties of gathering valid data on ever-changing and maturing technological processes that differ widely among railroads, even among yards, and over time, how confident can we be in the validity of the current ongoing FRA evaluation of the safety of RCL practices? Does FRA plan any changes in its data-gathering methods before the final report to Congress?
2. Has any new data emerged that would cast new light on the results reported from the earlier FRA focus group meetings, which results outlined several substantial safety concerns of rail workers involved regarding RCLs?
3. Has FRA drawn any conclusions on the potential security vulnerabilities of RCL technology in rail yards or on main lines, perhaps especially in relation to hazardous materials carloads?
4. Given our long-expressed overall safety concerns with RCL technology, can you outline the current FRA position on the acceptability of the railroads' extending the technology in the near future into new areas of rail work and to areas further from the terminal?

We look forward to initiating a dialogue with you, and we hope it will be valuable for all.
Please let us know if the dates we have suggested are convenient for you.

Sincerely,

A handwritten signature in black ink, appearing to read "D. M. Hahs". The signature is written in a cursive style with a large, prominent initial "D".

Don M. Hahs,
President

cc: E. W. Rodzicz, FVP
W. C. Walpert, GST
R. A. Holmes, VP & NLR

INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

AFL-CIO



July 2, 2004

Mr. Ed Pritchard, Director
Mr. Doug Taylor, Manager of Operating Practices
Office of Safety Assurance and Compliance
Federal Railroad Administration
1120 Vermont Avenue, NW
Washington, DC 20590

Dear Gentlemen:

Thank you for the cordial and informative meeting that Fred Millar, Bob Harvey and I had with you at FRA on June 15 focusing on your Interim Report on Remote Control Operations. We have some follow-up questions regarding the ongoing Remote Control Operations study that we would like to raise with you, some of which came up during the meeting. Many of them, as you will see, center on what can be said about the FRA's confidence level in the data and especially in the conclusions you have drawn from the data.

Prior to addressing our specific questions and concerns with the Interim Report, it is meaningful to reiterate our general concern with the document; namely, that the data used in the analysis have been self reported by the railroads and are therefore likely subject to an inherent reporting bias in favor of RCO. In our opinion, the major Class I railroads have aggressively embraced this unregulated and evolving technology without any independent verification or critical analysis as to its overall impact on safety and productivity in the rail yards of the United States. Needless to say and despite millions of dollars of capital expense invested in this technology by the railroads and its suppliers, we feel the conclusions stated in the Interim Report cannot be relied upon as an objective assurance that RCO is being uniformly and safely implemented by its proponents.

Furthermore, we feel FRA research is stretching the boundaries of reasonable interpretation from this admittedly preliminary data when it makes pronouncements regarding reductions in injury rates and other safety comparisons between RCL and conventional modes of operating. FRA findings are based on data gathered over varying railroads, time periods, expanding RCL implementations, changing training regimes, yet your confidence in the validity of the results seems almost absolute. It appears to us that the industry is forcing FRA to play 'catch up' with the implications of this technology and its usages (p. 18). Rather than furthering an open dialogue on RCO and allowing the FRA the time needed to make meaningful assessments of the new operating practices this technology demands, the rail industry and its allies are proceeding on a path of widespread implementation with the approval of the FRA coming as an afterthought.

Specific Questions:

- 1) The IBT has concerns that the period of May 2003 to November 2003 for data collection was too brief to get an accurate reflection of RCO during all types of climatic change and did not allow for a sufficient ramp-up period for carriers and workers to fully understand and implement the reporting code changes (and possible errors) that occurred at the beginning of the period. Would the FRA consider updating the report based on the 12-month period ended April 2004 to further study results? If not, based on the earlier Foster-Miller report on railyard worker safety and on current emerging evidence of RCL-related accidents by month, what does the FRA consider a reasonable time period for a valid study on RCL safety?
- 2) Given FRA's acknowledgement of "continued use and expansion of RCL operations" (p. 18), how can FRA have confidence in the validity of its safety research in the next phase without at least some attempt to hold constant some factors over a reasonable period of time? The boundaries for acceptable use are unclear (pp. 9-10) and the Remote Control Zone idea is clearly experimental (p. 12).
- 3) Not all freight railroads have adopted FRA recommendations for Remote Control Operations (cf. pp. 10, 13). This FRA finding underscores the malleability of the RCL work environment in its current experimental phase. On page 18, the audit concludes: "FRA recognizes that there may be several factors that help account for the disparity [noted in the audit] in the accident and injury rates, such as the relative simplicity of switching operations where RCLs have been instituted, or the relative age distribution of RCOs vs conventional switching crews." Without performing detailed accident investigations or comprehensive case studies, what confidence can FRA have that the railroads individually or together have not "cooked the data" in a direction biased towards supporting the safety of RCLs?
- 4) What confidence can FRA have in its rather vague suggestion to the railroads that they try to normalize the data by use of "exposure" data and the railroads' use of "yard switching miles" (YSMs) for this purpose? Specifically, what evidence (audits, e.g.) does FRA have that YSMs :
 - a. are a valid measure and relevant to safety?
 - b. was measured consistently within railroads and across different railroads?
 - c. is superior to tracking hours actually worked by modality, similar to other safety and productivity measures?
- 5) What data can you provide to prove or to suggest the:
 - a. effectiveness of existing FRA inspection and enforcement processes regarding RCLs?

- b. effectiveness of the railroads' various training programs for RCLs?
- 6) The FRA's security concerns regarding unattended RCLs seems understated and not commensurate with the new concerns for rail security, especially wireless applications (pp. 11, 17). What data are there or evidence from 1) the AAR's national threat and vulnerability analysis or 2) the individual railroads' recently created Security Plans (under HM-232), or 3) FRA's ongoing "review" (p. 17) regarding:
- a. the potential security vulnerabilities (to hackers or hijackers) of RCLs, attended or not?
 - b. the use/storage of RCO beltpacks?
 - c. the overall security implications of fewer "eyes and ears" in the yards, etc as the size of crews is diminished?
- 7) Has the AAR and/or individual railroads raised any security concerns or taken any special precautions with RCOs? Have you received good information yet from vendors regarding the security features of RCOs? Can FRA or the railroads account for each of the RCO Transmitters or Operator Control Units purchased by the railroads or used in research settings?
- 8) On p. 18, the audit suggests that "a 57 percent reduction in injury rates is substantial and may (emphasis added) reflect inherent safety advantages of the technology and the careful attention that the rail industry and FRA are devoting to the implementation of RCL operations." Even if the data were shown to be valid, what confidence can FRA have that a kind of "Hawthorne effect" is not operative here – such that the initial "careful attention" might not be sustainable as the technology is implemented in the absence of carefully-drafted regulations and experienced operators?
- 9) Is the FRA reviewing any evidence regarding the relationship between incidence of RCL accident or injuries and the level of experience an RCO has in the contemporary rail yard environment? Especially for training and other key "root cause" factors, how can FRA seek to guarantee adequate classroom and on-the-job training before risky decisions are made regarding the railroads' employment of new hires to move freight? Given the growing influx of new rail industry workers, can any more be said by FRA about the "adequate time" one needs to receive in one position before being capable of performing another (p.5)?
- 10) There is a statement appearing on page 14 of the Report that establishes FRA as the preemptive authority with regard to public crossings.

"Under all circumstances, when railroads are conducting 'switching operations' [footnote 1] over public highway-rail grade crossings, train crews are required by federal regulation to provide proper protection at the crossing."

- a. What is the basis for this statement and does it need to be further clarified to Congress in your opinion?
 - b. What federal regulations govern what railroads can do regarding use of RCLs across grade crossings?
- 11) The FRA in a discussion of "point protection" at page 12 states, "While one solution would be to require an RCO to protect the point each time there is an RCL train movement, **this practice would greatly reduce the speed and efficiency of RCL operations...**" (emphasis added) Does FRA have evidence to indicate that this practice (eliminating point protection) is necessary to improve efficiency?
- 12) Has FRA kept a complete file of all reported communication failures with RCL devices?
- 13) Has FRA audited railroads:
- a. for compliance to the new Accident Reporting Guidelines?
 - b. for compliance to the recommendations in the Safety Advisory?
- 14) During our meeting it was generally stated that having the RCO 'in charge of his own destiny' is preferable for safety reasons than having multiple sets of eyes and ears on the job since the possibility of miscommunication exists between humans. Another belief is that properly staffed operations, whether conventional or not, allow for potentially corrective actions by one worker if the other is making a serious mistake. Does FRA have or seek to capture any examples or data on accidents averted by such corrective cooperation from colleagues?
- 15) Given several historic examples of the railroads' 'resistance' to adherence to voluntary guidelines from FRA and its reliance on self serving data (eg, RCL use in Canada) to promote its own cost reduction agenda, what assurances can FRA give the workers, shippers and the public that enforceable measures are being contemplated by FRA to prevent the use of this (and other emerging technologies) from being summarily introduced on the mainline because of the absence of a timely imposition of regulations?
- 16) Given FRA's need to calculate cost-benefit factors in promulgating any potential new regulations, has FRA begun gathering information about the productivity of RCOs?
- 17) By analogy with the FRA's expressed safety philosophy regarding rail accidents

having their root causes in the overall "conditions" or management systems (training, supervision, etc.) in place, the railroads' use of RCOs and the FRA oversight of them must be seen by others as an integrated 'system of continuous improvement' (rather than subject to a regulatory structure). Considering the rapid expansion of RCL operations, has FRA considered the wisdom of engaging an outside 'systems analysis' firm, an academic or government oversight body that could perform an independent audit of this whole 'remote yard system' regarding potential root causes of accidents, and make recommendations for improvements if needed?

18) What evidence is there of the rates of deployment of RCOs by various railroads?

19) What data exists or is being reviewed on the link between RCOs and fatigue? Is an RCO operator more or less likely than a certified engineer operating conventionally with a crew to make serious mistakes late in the shift? What are the effects of cumulative fatigue to an RCO operator?

We trust you will recognize these are key questions for our ongoing assessment of the safety and security implications of RCOs. We look forward to a continuing dialogue with you on these and other technical and policy questions.

As we continue explore the empirical case FRA has presented in this Interim Report, we remain hopeful that FRA is also considering the benefits of establishing a new regulatory protocol that would standardize training and operating practices across the spectrum of RCO users. We feel the locomotive engineers and other rail workers operating with and near this technology need something other than employer provided assurances regarding its safe and practical use. Ultimately, we would prefer to see the Federal agency charged with oversight of the operating practices of the rail industry to openly address the ever-escalating use of remote control operations in more than a reactive manner. Thank you for consideration of these questions and we at the IBT/BLET look forward to your written response to them. In the event you would like to discuss this issue further, both Mr. Harvey, Dr. Millar and I would look forward to another meeting.

Sincerely,



Michael E. Conyngham
Director of Research

MEC/taw

cc: James Hoffa, General President, IBT
Don Hahs, National President, BLET