

Brian J. Knipe
(717) 237-4820
Brian.Knipe@bipc.com

17 North Second Street, 15th Floor
Harrisburg, PA 17101-1503
T 717.237.4800
F 717.233.0852

www.bipc.com

February 26, 2010

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FEB 26 2010

RECEIVED

Re: *Pennsylvania State Legislative Board United Transportation Union v. Norfolk Southern Railway Company*, Docket No. C-00019522

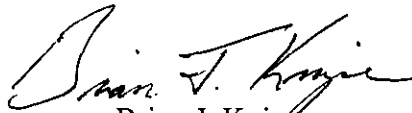
Dear Secretary McNulty:

Enclosed for filing on behalf of Norfolk Southern Railway Company are the following:

1. The original and nine (9) copies of the *Main Brief of Norfolk Southern Railway Company*.
2. The original and three (3) copies of the *Motion of Norfolk Southern Railway Company for the Admission of Evidence of Documents Referenced in Testimony*.

Copies of the Main Brief and Motion have been served in accordance with the attached Certificate of Service.

Very truly yours,



Brian J. Knipe

For BUCHANAN INGERSOLL & ROONEY, P.C.

BJK/paf

Enclosures

cc: The Honorable Wayne L. Weismandel (via hand delivery and e-mail w/encl. (Brief in Word format))
Joseph P. Sirbak, II, Esq.
Certificate of Service

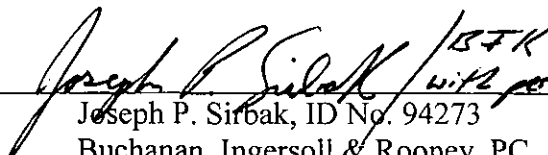
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Legislative Board United :
Transportation Union :
v. : Docket No. C-00019522
Norfolk Southern Railway Company :

NOTICE TO PLEAD

To: Irwin W. Aronson, Esq.
Willig Williams & Davidson
Suite 504
212 Locust Street
Harrisburg PA 17101

Pursuant to 52 Pa. Code § 5.103, you are hereby notified that you have **twenty (20) days** from the date of service of this Motion to respond.


with permission
Joseph P. Sirbak, ID No. 94273
Buchanan, Ingersoll & Rooney, PC
50 S. 16th Street, Suite 3200
Philadelphia, PA 19102
Telephone: (215) 665-8700
Facsimile: (215) 665-8760
joseph.sirbak@bipc.com

Date: February 26, 2010

Attorneys for Norfolk Southern Railway
Company

SECRETARY'S BUREAU
PA PUC

2010 FEB 26 PM 3:39

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PA PUC
SECRETARY'S BUREAU

Pennsylvania State Legislative Board United :
Transportation Union :
v. : Docket No. C-00019522
Norfolk Southern Railway Company :

**MOTION OF NORFOLK SOUTHERN RAILWAY COMPANY FOR THE
ADMISSION OF EVIDENCE OF DOCUMENTS
REFERENCED IN TESTIMONY**

TO ADMINISTRATIVE LAW JUDGE WAYNE L. WEISMANDEL:

Norfolk Southern Railway Company ("NS") hereby moves pursuant to 52 Pa. Code § 5.103 for the admission into the record of additional evidence, consisting of NS rules referenced in testimony of NS's rebuttal witness Darnell W. Wood, in response to testimony of witnesses appearing on behalf of the Pennsylvania State Legislative Board United Transportation Union ("UTU") who testified regarding the state of operations at the Conway Yard. Attached as **Exhibit A** is an Affidavit of Mr. Wood attaching pages, which were prepared personally by Mr. Wood and under his supervision, containing the text of the referenced NS rules. Given the importance of compiling an evidentiary record for this Commission that includes documents referenced in the witnesses' testimony, these pages are relevant, material and admissible, and their admission into evidence is in the public interest.

In support of this Motion, NS states the following:

1. Evidentiary hearings were held before Administrative Law Judge Wayne L. Weismandel ("ALJ") on February 18 and 19, 2010.

2. At hearing, various witnesses for the UTU provided non-specific, anecdotal testimony regarding operations at Conway Yard including, among other things, that there is always an NS employee riding the lead car of every shove movement at Conway Yard,¹ that they see cars left unattended on the departure tracks at least twice a week,² that they have witnessed car inspectors fouling tracks,³ and that the yardmasters are at times unaware of the location of cars and employees in their respective yards.⁴ In addition, UTU witnesses testified that there are no rules at Conway Yard prohibiting employees from fouling tracks in the performance of their duties.⁵

3. In responding to these witnesses' testimony, Mr. Wood testified that all NS employees are trained, through safety workshops and rules classes, not to foul tracks on which they are not actively working.⁶ Mr. Wood also described the "90 degree principle" for stepping off rail vehicles and the "blue flag" process for car inspectors required under NS's Operating Rules.⁷ Mr. Wood further testified that the rules governing operations at Conway Yard require the reporting of incidents such as those described by UTU witnesses, but that no such incidents have been reported to him.⁸ In addition, Mr. Wood testified that there are rules for employees riding rail cars.⁹ During the hearing, UTU witnesses referenced these rules as well.¹⁰

4. NS's operational and safety rules are the type of evidence that will be of definite interest to the Commission in reaching its decision. Indeed, in overruling objections by UTU

¹ Tr. at 305 to 307 (testimony of UTU Witness Robert A. Kroskey, Jr.).

² Tr. at 199, 230 to 233 (testimony of UTU Witness Adam Kaufman).

³ Tr. at 201 to 202, 228 (testimony of UTU Witness Adam Kaufman), at 347 to 348 (testimony of UTU Witness Robert A. Kroskey, Jr.).

⁴ Tr. at 199, 214, 219 to 220, 230 to 231, 255 to 256 (testimony of UTU Witness Adam Kaufman); Tr. at 378 to 380 (testimony of UTU Witness Gregory Murphy).

⁵ Tr. at 248 to 249 (testimony of UTU Witness Adam Kaufman), at 400-401 (testimony of UTU Witness Gregory Murphy in response to questions of ALJ Weismandel).

⁶ Tr. at 466 to 467.

⁷ Tr. at 466-471.

⁸ Tr. at 425 to 428, 483 to 487, 525.

⁹ Tr. at 445.

¹⁰ See, e.g., Tr. at 358 (testimony of UTU Witness Gregory Murphy).

counsel to the admission into evidence of NS's published system wide standards for maintenance and testing of shove lights, the ALJ described the Commission's strong preference to see documents referenced in testimony:

MR. ARONSON: We would renew our objection and add to it an objection based on relevance, and suggest, with all due respect, that the witness' testimony speaks for itself; he has orally described what it is they would be doing --

JUDGE WEISMANDEL: I'll tell you, Mr. Aronson, I am going to overrule your objection and I'm going to overrule it on the basis of the fact that the Commission very often likes to be able to look, themselves, at documents that are referred to in testimony. I think you're absolutely correct, by the way, in that Mr. Sykes has given extremely accurate testimony describing what's in the exhibit, for which I thank him, but knowing the Commission's propensity to want to see things themselves, I'm going to overrule your objection, although it is, of course, noted, and admit the document.¹¹

5. Consistent with the Commission's preference to see documents referenced in testimony, NS respectfully requests for the admission into evidence of the Affidavit and documents attached as **Exhibit A**, which were prepared by and under the supervision of Mr. Wood, and contain pertinent rules from three (3) rulebooks in the possession of all Conway Yard employees:

(a) Pittsburgh Division Northern Region Timetable Number 1, effective 12:01 a.m. Eastern Standard Time, Monday, August 4, 2008 ("Timetable").

(b) Norfolk Southern Corporation Operating Rulebook, effective May 1, 2008 ("Operating Rulebook").

(c) Norfolk Southern Corporation Safety and General Conduct Rulebook, effective 12:01 a.m., Thursday, January 1, 2009 ("Safety Rulebook").

6. As shown in the attached **Exhibit A**, the Timetable, the Operating Rulebook and the Safety Rulebook (i) prohibit employees from riding the lead end of a car in certain

¹¹ Tr. at 105:19 to 106:8.

circumstances; (ii) prohibit car inspectors and all other employees from fouling tracks and require them to be mindful of their surroundings at any time, on any track, in either direction; (iii) require yardmasters to be aware of the location of all cars in their respective yards; and (iv) in the event a rule violation is observed, require employees to stop work and conduct a job safety briefing. The attached documents containing the text of the relevant rules are accompanied by a supporting Affidavit of Darnell W. Wood.

7. In accordance with the ALJ's Scheduling and Briefing Order issued on February 3, 2010, the record in this proceeding is still open, until 4:30 p.m. prevailing local time on Thursday, March 4, 2010.

8. The Commission's regulations provide ample authority for the admission of this supplemental evidence. In fact, the regulations provide for the ALJ to allow the acceptance into the record of additional matter even after the record is closed, for good cause shown.¹² In this instance, the record is still open and the referenced documents are of definite interest to the Commission. Therefore, the grounds for admitting this limited supplemental material into evidence are even stronger.

9. These rules referenced in Mr. Wood's rebuttal testimony are relevant, material and admissible, and their admission into evidence is in the public interest.

¹² 52 Pa. Code §§ 5.431(b) (close of the record); *see* 52 Pa. Code §§ 5.504(a) (authority of the ALJ to call for further admissible evidence at any stage of the hearing or thereafter), 5.571(a), (d)(1) (authority of the ALJ to reopen the record if the ALJ has not issued a decision).

WHEREFORE, for the foregoing reasons, Norfolk Southern Railway Company respectfully requests that the ALJ grant this Motion and allow the admission into evidence of the documents attached hereto as **Exhibit A**.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY, P.C.

By:  */BTR with permission*
Joseph P. Sirbak, ID No. 94273
50 S. 16th Street, Suite 3200
Philadelphia, PA 19102
Telephone: (215) 665-8700
Facsimile: (215) 665-8760
joseph.sirbak@bipc.com

Brian J. Knipe, ID No. 82854
17 North Second Street, 15th Floor
Harrisburg, PA 17101-1503
Telephone: (717) 237-4800
Facsimile: (717) 233-0852
brian.knipe@bipc.com

Dated: February 26, 2010

Attorneys for
Norfolk Southern Railway Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Legislative Board United	:	
Transportation Union	:	
	:	
v.	:	Docket No. C-00019522
	:	
Norfolk Southern Railway Company	:	

AFFIDAVIT OF DARNELL W. WOOD

I, Darnell W. Wood, do hereby depose and state as follows:

1. I am currently employed by Norfolk Southern Railway Corp. ("NS") as Terminal Superintendent of Conway Yard and have been employed in that position since August 2006. I have been employed by NS for nearly thirty (30) years and have been an Assistant Terminal Superintendent or Terminal Superintendent at various rail yards on the NS system since 1995.

2. As Terminal Superintendent of Conway Yard, I am responsible for the safe and efficient operation of Conway Yard. I have supervisory authority over all activities related to transportation at Conway Yard.

3. In my rebuttal testimony at the evidentiary hearing held in this matter on February 18 and 19, 2010, I referenced various NS rules governing NS employees at Conway Yard.

4. Attached to my Affidavit is a document that was prepared under my supervision, as well as personally by me, consisting of the text of the rules I referenced in my rebuttal testimony.

5. The referenced rules are taken from three (3) NS rulebooks:

(a) Pittsburgh Division Northern Region Timetable Number 1, effective 12:01 a.m. Eastern Standard Time, Monday, August 4, 2008 ("Timetable").

(b) Norfolk Southern Corporation Operating Rulebook, effective May 1, 2008 ("Operating Rulebook").

(c) Norfolk Southern Corporation Safety and General Conduct Rulebook, effective 12:01 a.m., Thursday, January 1, 2009 ("Safety Rulebook").

6. All Train and Engine Service Employees and Yard Masters at Conway Yard, including supervisors, have a personal hard copy of the Timetable, Operating Rulebook and Safety Rulebook. I have a personal hard copy of each NS rulebook as well.

7. Each of these rulebooks is made available to all Train and Engine Service Employees and Yard Masters at Conway Yard, including supervisors and me, in pdf format as well.



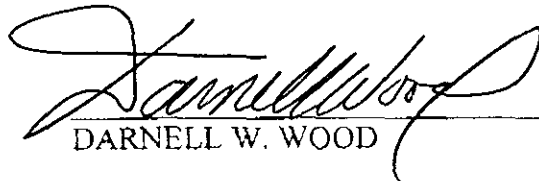
8. The Timetable is exclusively maintained by the NS Pittsburgh Division, and updated from time to time through Special Instructions, and governs NS employee conduct in the Pittsburgh Division.

9. The Operating Rulebook is exclusively maintained and updated by the NS Operating Rules Department, and governs NS employees system wide. When the Operating Rules Department updates the NS Operating Rulebook, it sends the Pittsburgh Division a new rulebook for each and every employee in the Pittsburgh Division, including me.

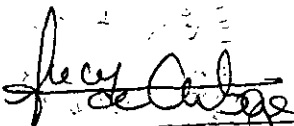
10. The Safety Rulebook is exclusively maintained and updated by the NS Safety Rules Department, and governs NS employees system wide. When the Safety Rules Department updates the NS Safety Rulebook, it sends the Pittsburgh Division a new rulebook for each and every employee in the Pittsburgh Division, including me.

11. In accordance with FRA requirements, NS annually checks the hard copies of each and every Pittsburgh Division employee's rulebooks, at a rules class, to ensure they are kept up to date to reflect changes made through Special Instructions. The hard copies of Pittsburgh Division employees' rulebooks are also inspected by NS officers upon request.

12. The text in the attached document is identical to the text of the referenced rules as they currently appear in the Timetable, Operating Rulebook and Safety Rulebook of every employee in the NS Pittsburgh Division.


DARNELL W. WOOD

Sworn to and subscribed before me
this 25 th day of February, 2010.


Notary Public My COMMISSION
EXPIRES ON April 23, 2013

Pittsburgh Division Northern Region Timetable Number 1
Effective 12:01 a.m. Eastern Standard Time
Monday, August 4, 2008

PITTSBURGH DIVISION
SPECIAL INSTRUCTIONS (CONT.)
PB-GR-15-1. RIDING ON EQUIPMENT

1. All employees are prohibited from riding the leading end of a car when it PLACES THE EMPLOYEE BETWEEN THE GAUGE OF THE TRACK, except when it is necessary to operate the hand brake on a moving car. This does not prohibit an employee from riding under the slope sheets of a hopper, covered hopper, or on the end platform of a tank car outside the gauge of the track. In addition, employees must not cross over on end of moving cars or between moving coupled cars.

2. In an effort to further reduce the risk of injury associated with the switching of cars or make-up of trains, the Pittsburgh Division has adopted a policy which prohibits employees from riding the side or end of moving equipment, including locomotives while a coupling is made. Employees are required to stop the move and dismount from the equipment, before proceeding to make the coupling. Keep in mind, clear and constant communication between the on ground crew member and Engineer, prior to and while the coupling is made, is essential to prevent injuries and/or accidents. All couplings must be consistent with our careful car handling programs and should not exceed 4 MPH. Please arrange to discuss this change in procedure during your pre-job safety briefings.

Norfolk Southern Corporation Operating Rulebook

Effective May 1, 2008

98. Responsibility for Safety of the Train

(a) The Conductor, Engineer and pilot are jointly responsible for safety of the train and engine and for observance of the rules. Under conditions not provided for by the rules, they must take every precaution for protection. When necessary, they must instruct members of their crew as to proper performance of duties.

(b) Other members of the crew must call attention of Conductor or Engineer immediately to any apparent failure to observe requirements of rules, Timetable, mandatory directives, messages or other instructions.

(c) If the Engineer fails to control movement in accordance with signals or other conditions, crew members must communicate with him at once. If he then fails to immediately control speed properly they must take necessary action to stop the train.

(d) When a train or yard movement has in its consist a crane, spreader, ditcher, or other equipment, the operation of which may foul adjacent tracks, such work must not be attempted until protection has been provided against approaching movements on all tracks that may be fouled.

99. Precautions Against Unusual Conditions

Trains must be fully protected against any known condition that may interfere with safe passage.

(a) If an event occurs or conditions are found that may interfere with the safe passage of trains and no protection has been provided, employees must immediately attempt to stop trains by radio communication.

1. If a crew member believes the train has passed over a dangerous defect, the train must be stopped at once and inspected.

2. When severe storm, dense fog, high water, fire or any other condition threatens safe movement speed must be reduced on curves and wherever conditions require.

(b) A prompt report must be made to the Train Dispatcher/Control Operator and protection provided.

SHOVING MOVEMENTS

103. Shoving Equipment at Any Location

When shoving equipment at any location, crew member or other qualified employee must take action to prevent damage, protect against conflicting movements, and avoid fouling other tracks. A crew member or other qualified employee must be located at, on, or ahead of the

leading end, except when:

(a) In a position to determine positively:

- there is sufficient room in the track to hold the equipment being shoved
- there are no conflicting movements
- intervening road crossings are properly protected
- intervening switches and derails are properly lined for the intended movement

(b) The movement is governed by shove lights and made in accordance with special instructions.

YARDMASTERS

570. Receiving Instructions; Yardmasters

Yardmasters report to and receive their instructions from the Superintendent or other designated officer.

571. Authority and Responsibilities; Yardmasters

(a) Yardmasters have charge of:

1. Their respective yards.
2. Making up and distribution of trains.
3. Handling of cars within yards.
4. Yard employees.
5. Train and engine crews while within yard limits.
6. Efficient handling of yard work.
7. Prompt movement of cars.

(b) *Where practicable, they must see that:*

1. Employees are in condition for the proper discharge of duty.
 2. Crews report for duty with the prescribed number of employees at the appointed times.
 3. Trains are properly made up and dispatched at the times prescribed.
 4. Shipping papers are furnished together with any instructions concerning restricted cars or shipments to Conductors for the movement of cars in their trains.
- Yardmasters are responsible for efficient handling of yard work and prompt movement of cars, properly inspected and accompanied

by prescribed billing, and for having crews called and trains started at the appointed times.

572. Governing Rules; Instructions

Yardmasters must know and must require compliance with Operating Rules, laws and instructions governing:

- safety
- Hours of Service
- handling cars of hazardous materials
- handling cars of perishables
- weighing, switching and interchange
- loading and clearance limits
- prescribed records and reports

TRAIN SERVICE EMPLOYEES

580. Receiving Instructions — Conductors and Trainmen

Conductors and Trainmen report to and receive their instructions from the Division Superintendent or other designated officer. They must obey the instructions of Transportation Supervisors, Train Dispatcher/Control Operators, Yardmasters, and from officers of other departments on matters pertaining to those departments. Trainmen must obey the orders of their Conductor. In the absence of the Conductor, trainmen on an engine will obey the instructions of the Engineer.

582. Conductors — Authority and Responsibilities

(a) Conductors have charge of trains to which they are assigned.

(b) They are responsible for:

1. Safe and proper management of their train.
2. Protection and care of passengers and property.
3. Vigilance, conduct and proper performance of duty of other crew members.

4. Observance and enforcement of all rules and instructions.
 5. Proper reporting of all delays.
- (c) Conductors must maintain records and compile reports required by proper authority.
- (d) Before starting, Conductors must secure the prescribed documents and know that air brakes have been properly tested and that trains are ready for movement.

ENGINE SERVICE EMPLOYEES

NOTE: Engine service employees include Engineers, locomotive Engineer trainees (LET's), hostlers and hostler helpers. Rules for engine service employees in this Rule Book, apply when such employees are used.

600. Receiving Instructions; Governing Instructions

Engine service employees are directly responsible to and must follow the instructions of Division and Terminal officers. LET's must follow the instructions of Engineers. Within shop limits engine service employees are under the direction of shop supervisors. They will follow the instructions of Dispatchers, Train Dispatcher/Control Operators, Yardmasters and of their Conductors with respect to the general management of their trains.

613. Engineer's Responsibility for Other Persons

The Engineer:

- (a) Is responsible for the vigilance and conduct of other persons on the engine.
- (b) *Will ensure others are familiar with their duties and instruct them if necessary.*

GR-1. Performing Duties Safely

- (a) All employees must follow instructions from proper authority, and must perform all duties efficiently and safely.
- (b) In case of doubt or uncertainty, the safe course must be Taken.

GR-3. Observing Rules

Rules are subdivided and captioned for convenience. They must be observed when they relate in any way to the proper discharge of

the duties of any employee.

GR-14. Fouling Equipment

Employees must not stand on track in front of closely approaching equipment, or step between coupled moving cars or locomotives, for any reason. They must not step between or immediately in front of standing cars or locomotives unless necessary in the performance of duty, and then only after arranging for protection against the equipment being coupled to or moved.

Never make adjustments to moving equipment

GR-32. Safety Alertness — Fouling a Track

Fouling a Track means the placement of an individual or equipment in such proximity to a track that the individual or equipment could be struck by a train, locomotive, or other railroad equipment.

(a) Fouling a track may be necessary in the performance of railroad work.

(b) Proper safeguards must be in place before a track is fouled and may include protection by one of the following:

1. Blue Signals.
2. Roadway Worker Protection Rules.
3. Track and Time limits.
4. Application of Safety and Operating Rules concerning crossing, walking adjacent to, mounting and dismounting, and going around and between equipment.
5. Communication and understanding with the employee controlling the movement.
6. Employees must maintain a vigilant lookout for and detect the approach of a train, locomotive or other railroad equipment moving in either direction.

GR-38. Job Briefings

(a) A job briefing is communication between a group or by an individual (if on an independent assignment) to review:

1. Work to be performed.
2. Potential exposures.
3. Necessary safeguards for the task to be performed.
4. Applicable rules and procedures.
5. Tools, equipment, and materials needed.
6. Weather conditions.
7. Job location or work area.
8. Work assignments — group or individual.

(b) Participation and involvement in Job Briefings are required *and must be done*:

1. At the beginning of each job.
2. When the work changes.
3. When the work becomes confusing or new tasks are started.
4. When a rule violation is observed.

(c) The person conducting the Job Briefing must confirm that everyone involved understands all the instructions.

GENERAL NOTICE

Safety is of the first importance in the discharge of duty.

Obedience to the rules is essential to safety.

Willingness to obey the rules is necessary in order to enter or remain in the service. Past practices not in conformity with the rules are unacceptable as an excuse for noncompliance.

The service demands the honest, intelligent, and courteous discharge of duty.

To obtain promotion, ability must be shown for greater responsibility.

Operating Rules have evolved from the experience of many people on many railroads over many years. This process will be continuing, and constructive suggestions to improve Operating Rules should be submitted to transportation officers.

F. Reporting Unusual Occurrences

Accidents, defects in track, bridges, signals or highway crossing warning devices, fires on or near the right of way, or any unusual condition that may affect the safe and efficient operation of the railroad must be reported promptly to the proper authority by the quickest means of communication.

I. Protection Against Movements

Employees must expect the movement of trains, engines, or cars at any time, on any track, in either direction.

J. Working Safely

Employees must not do any work in a manner that will jeopardize their own safety or the safety of others. They must know that appliances, tools, supplies, and facilities used in performing their duties are in proper condition. If not, they must have them repaired or replaced before using them. It is the duty of every employee to examine them to determine their condition.

**NORFOLK SOUTHERN CORPORATION SAFETY AND
GENERAL CONDUCT RULEBOOK
Effective 12:01 a.m.
Thursday, January 1, 2009**

WORKING ON OR ABOUT TRACKS

1050. Employees must not walk or stand between the rails of a track or foul a live track unless necessary in performance of their duties.

1050(a). When walking, employees must:

[1] Remain aware of their surroundings.

[2] Not engage in an activity, which will distract their attention.

[3] Be alert for slipping and tripping hazards.

[4] Walk around obstructions, open holes, and excavations.

[5] Use designated walkways where provided and choose routes that afford the safest walking conditions.

[6] Use extra caution while walking on ballast and ballast shoulders, on uneven ground, in icy and snowy conditions, when visibility is reduced, or when stepping on crossties.

1051. Employees working adjacent to a track upon which movements are being made must maintain a vigilant lookout for approaching movements. Warning devices on all machines so equipped must be sounded continuously until the leading end of the movement has passed. If the adjacent track is less than 25 feet away and speed of the passing train is more than 25 MPH, machine operators must stop work but remain seated; other employees must stop work and stand clear. If the adjacent track is less than 25 feet away and speed of the passing train is 25 MPH or less, employees may continue to work, but maintenance machines must not be operated at more than 5 MPH while the train is passing.

SERVICING OR MAINTAINING CARS OR LOCOMOTIVES

Blue Signal Protection

1300. Employees assigned to inspect, test, repair, or service locomotives or cars must protect themselves against movement of such equipment in compliance with the following rules:

Definitions

Blue Signal — A clearly distinguishable blue flag or blue light by day and a blue light at night. When attached to the operating controls of a locomotive, it need not be lighted if the inside of the cab area of the locomotive is sufficiently lighted to make the blue signal clearly distinguishable.

Workman — Railroad employee assigned to inspect, test, repair, or service railroad rolling equipment or their components including brake systems.

Group of Workmen — Two or more workmen of the same or different crafts assigned to work together as a unit under a common authority and who are in communication with each other while the work is being done.

Switch Providing Access — A switch which if traversed by rolling equipment could permit that rolling equipment to couple to the equipment being protected.

Servicing — Pertains to sanding, adding lubrication oil, etc., but does not include supplying cabooses, locomotives or passenger cars with items such as ice, drinking water, tools, sanitary supplies, stationery, or signaling equipment.

Rolling Equipment — Includes locomotives, railroad cars, and one or more locomotives coupled to one or more cars.

1300(a). Blue signals displayed in accordance with these rules signify that workmen are on, under, or between rolling equipment. Where required, blue signals must be displayed by each craft or group of workmen and may be removed only by the same craft or group. When so displayed:

[1] The equipment may not be coupled to.

[2] The equipment may not be moved except in a locomotive servicing track area or in a shop repair track area as provided for in **Rule 1300(c)[3]**.

[3] Other rolling equipment may not be placed on the same track so as to block or reduce the view of a blue signal except as provided for in **Rule 1300(c)[2]** and **Rule 1300(c)[3]**.

[4] If the rolling equipment to be protected includes one or more locomotives, a blue signal must also be attached to the controlling locomotive at a location where it is readily visible to the engineer or operator at the controls of that locomotive. When a blue signal is displayed on the brake valve of the controlling unit, the air brakes must not be applied nor released.

[5] Rolling equipment may not pass a displayed blue signal.

1300(b). On main track, before workmen go on, under, or between rolling equipment, a blue signal must be displayed at each end of the rolling equipment

1300(c). On other than main track, before workmen go on, under, or between rolling equipment, one or more of the following forms of protection must be provided against movement of equipment:

[1] Each manually-operated switch providing access to the track must be lined against movement to that track and secured by an effective locking device. A blue signal must be placed at or near each such switch.

[2] A derail capable of restricting access to the portion of track where work will be performed must be locked in derailing position with an effective locking device and positioned at least 150 feet from the rolling equipment to be protected. A blue signal must be displayed at each such derail.

[3] In a locomotive servicing area, where fueling and/or servicing is performed or in a car shop repair area, each manually-operated switch providing entrance to or departure from the area must be lined against movement to the area and secured with an effective locking device. A blue signal must be displayed at or near each such switch. A derail positioned at least 50 feet from the end of rolling equipment requiring protection may be used in lieu of a manually operated switch. Such derails must be locked in derailing position and a blue signal must be displayed at each such derail.

Blue signal protection removed for the movement of locomotives into or out of a locomotive servicing area track must be restored immediately after the locomotive(s) clear the switch or derail. Locomotive(s) moved into such an area must be stopped short of coupling to another locomotive.

On a locomotive servicing area track protected by blue signals and under exclusive control of mechanical forces, a locomotive may be repositioned by an authorized employee under the direction of the employee in charge of the workmen, after blue signal has been removed from the controlling unit, and workmen on that track have been warned of the movement. Locomotives with blue signals attached to them must not be coupled to.

On a shop or repair track protected by blue signals and under exclusive control of mechanical forces, rolling equipment may be repositioned with a car mover when operated by an authorized employee under the direction of the employee in charge of the workmen after the workmen on that track have been warned of the movement

[4] Where remotely-controlled switches provide access to the track, the person in charge of the workmen must arrange for protection of those switches by the control operator.

Before cars or engines are inspected, tested, repaired, or serviced on a track that can be entered at a remotely-controlled switch, the operator must line the switch against movement to track(s) where the work will be done, apply blocking to prevent operation of the switch,

and maintain this protection until notified by the person in charge of the workmen that it is safe to remove. The operator must maintain for 15 days a written record of each notification which contains the following information:

[4.1] The name and craft of the employee in charge who provided the notification;

[4.2] The number or other designation of the track involved;

[4.3] The date and time the operator notified the employee in charge that protection had been provided; and

[4.4] The date and time the operator was informed that the work had been completed, and the name and craft of the employee who provided this information.

[5] If rolling equipment requiring blue signal protection is on a track equipped with one or more crossovers, both switches of each crossover must be lined against movement through the crossover toward that rolling equipment, and the switch of each crossover that provides access to the rolling equipment must be protected in accordance with the provisions of **Item [1]** or **[4]** unless a derail is being used as provided in **Item [2]**.

1300(d). When emergency repair work is to be done on, under, or between a locomotive or one or more cars coupled to a locomotive, and blue signals are not available, the engineer or operator at the controls of that locomotive must be notified and effective measures must be taken to protect the workmen making the repairs.

1300(e). Cars or engines must not pass beyond the point on an industry track where a blue signal is displayed and must not couple to nor move equipment protected by a blue signal. Such a signal may be removed only by industry personnel.

1300(f). Protection In Connection With Handling End-of-Train Devices Or Markers

[1] Blue signal protection **is** required when an employee, other than a train crew member, performs the following:

[1.1] (a) installs, (b) repairs, or (c) removes an end-of-train device or a portable electric marker.

[1.2] Examines an end-of-train device or a portable electric marker on non-main track to determine that the marker is in operating condition at an initial terminal or crew change point.

[1.3] Fouls a track to operate the emergency reset function on an end-of-train device. **EXCEPTION:** Blue signal protection is not required when a brake stick or similar device is used to operate the emergency reset function.

The employee must not foul the track or break the plane of the track with any body part.

[2] Blue signal protection **is not** required for any employee to examine an end-of-train device or a portable electric marker on a main track to determine that the marker is in operating condition. **NOTE:**

The examiner must personally contact the employee at the locomotive controls for assurance that the train will not move until the marker

examination is complete.

1300(g). Before releasing hand brake on rolling equipment under blue signal protection, effective measures must be taken to protect workmen.

GR-1. Performing Duties Safely

(a) All employees must follow instructions from proper authority, and must perform all duties efficiently and safely.

(b) In case of doubt or uncertainty, the safe course must be Taken.

GR-3. Observing Rules

Rules are subdivided and captioned for convenience. They must be observed when they relate in any way to the proper discharge of the duties of any employee.

GR-14. Fouling Equipment

Employees must not stand on track in front of closely approaching equipment, or step between coupled moving cars or locomotives, for any reason. They must not step between or immediately in front of standing cars or locomotives unless necessary in the performance of duty, and then only after arranging for protection against the equipment being coupled to or moved.

Never make adjustments to moving equipment

GR-32. Safety Alertness — Fouling a Track

Fouling a Track means the placement of an individual or equipment in such proximity to a track that the individual or equipment could be struck by a train, locomotive, or other railroad equipment.

(a) Fouling a track may be necessary in the performance of railroad work.

(b) Proper safeguards must be in place before a track is fouled and may include protection by one of the following:

1. Blue Signals.

2. Roadway Worker Protection Rules.

3. Track and Time limits.

4. Application of Safety and Operating Rules concerning crossing, walking adjacent to, mounting and dismounting, and going around and between equipment.

5. Communication and understanding with the employee controlling the movement.

6. Employees must maintain a vigilant lookout for and detect the approach of a train, locomotive or other railroad equipment moving in either direction.

GR-38. Job Briefings

(a) A job briefing is communication between a group or by an individual (if on an independent assignment) to review:

1. Work to be performed.
2. Potential exposures.
3. Necessary safeguards for the task to be performed.
4. Applicable rules and procedures.
5. Tools, equipment, and materials needed.
6. Weather conditions.
7. Job location or work area.
8. Work assignments — group or individual.

(b) Participation and involvement in Job Briefings are required and must be done:

1. At the beginning of each job.
2. When the work changes.
3. When the work becomes confusing or new tasks are started.
4. When a rule violation is observed.

(c) The person conducting the Job Briefing must confirm that everyone involved understands all the instructions.

GENERAL NOTICE

Safety is of the first importance in the discharge of duty.

Obedience to the rules is essential to safety.

Willingness to obey the rules is necessary in order to enter or remain in the service. Past practices not in conformity with the rules are unacceptable as an excuse for noncompliance.

The service demands the honest, intelligent, and courteous discharge of duty.

To obtain promotion, ability must be shown for greater responsibility.

Operating Rules have evolved from the experience of many people on many railroads over many years. This process will be continuing, and constructive suggestions to improve Operating Rules should be submitted to transportation officers.

F. Reporting Unusual Occurrences

Accidents, defects in track, bridges, signals or highway crossing warning devices, fires on or near the right of way, or any unusual condition that may affect the safe and efficient operation of the railroad must be reported promptly to the proper authority by the quickest means of communication.

I. Protection Against Movements

Employees must expect the movement of trains, engines, or cars at any time, on any track, in either direction.

J. Working Safely

Employees must not do any work in a manner that will jeopardize their own safety or the safety of others. They must know that appliances, tools, supplies, and facilities used in performing their duties are in proper condition. If not, they must have them repaired or replaced before using them. It is the duty of every employee to examine them to determine their condition.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania State Legislative Board United	:	
Transportation Union	:	
	:	
v.	:	Docket No. C-00019522
	:	
Norfolk Southern Railway Company	:	

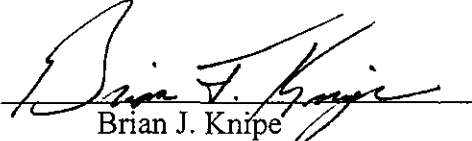
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document in accordance with the requirements of 52 Pa. Code § 1.54 et seq. (relating to service by a participant).

Via Hand Delivery and E-mail

Irwin W. Aronson, Esq.
Willig Williams & Davidson
Suite 504
212 Locust Street
Harrisburg PA 17101

Dated: February 26, 2010


Brian J. Knipe

RECEIVED
FEB 26 2010
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU