

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2013-0030

Brake System Safety Standards for Freight and Other Non-passenger
Trains and Equipment, End-Of-Train Devices
(49 C.F.R. Part 232)

June 19, 2013

STATEMENT OF RICHARD A. JOHNSON, GENERAL PRESIDENT,
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I. Introduction.

My name is Richard A. Johnson. I am the General President, Brotherhood Railway Carmen Division, Transportation Communications Union (BRC) and a National Vice President of the Transportation Communications Union (TCU/IAM). I have been a Carman for 42 years, beginning in 1971 on the former Milwaukee Road at Bensonville, Illinois, and I am personally familiar with the Federal Railroad Administration's (FRA) regulations that set forth safety standards for rail equipment.

BRC appreciates this opportunity to participate in the regulatory process, and brings to that process an enormous wealth of experience and practical knowledge in the area of railroad safety. Our experience has taught us that full compliance with FRA's safety regulations is the surest way to improve railroad safety and, to that end, BRC will address the safety and other issues raised by this petition for test waiver.

The BNSF Railway Company (BNSF) and the Union Pacific Railroad (UP) have jointly petitioned FRA for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. Specifically, BNSF and UP seek a waiver of compliance from 49 CFR 232.305(b)(2) for railroad cars tested with automatic single car test devices (ASCTDs). The current rule stipulates that if a car is on a shop or repair track for any reason and has not had a single car air brake test (SCT) within the previous 12-month period, an SCT must be performed. The Carriers now request that this requirement be pushed to every two (2) years. For the reasons provided below, BRC requests FRA deny this petition for test waiver.

II. BRC opposes the relief requested by BNSF and UP.

BRC opposes the relief requested by BNSF and UP because the Carriers have not provided sufficient assurance that the test waiver will not compromise railroad safety. It is vital that SCTs be performed once every year on a freight car. Within one (1) year, numerous defects could occur on a freight car such as broken pipes, bad valves, and inoperative pistons. This is especially true where extreme weather significantly increases the number of defects as well. Without a properly working braking system, the safety of both railroad employees and the general public could be put at risk. The relief requested by UP and BNSF is simply a matter of convenience. There is no reason why these SCTs cannot be performed once a year; if the car is already on the repair track, it should be tested in accordance with 49 CFR 232.305(b)(2). The following rationale supports BRC's position.

First, the information we have received from our people in the field contradicts the information provided in the Carriers' petition. In regards to the UP, Carmen at several major UP facilities indicate that there are usually only a few ASCTDs available and that they are used in a very small percentage of SCTs (such as five (5) percent or lower in some cases) on cars that are either difficult to test or when there is an undesired emergency application of brakes (UDEs). Moreover, we have also learned that UP Carmen are typically unable to use ASCTDs because they take too long to use and/or the devices are not properly working.

UP Carmen also indicate that the Manual Single Car Test Machine (MSCTM) is still employed as the main staple equipment to perform these critical airbrake tests. Under these circumstances, UP Carmen change-out a tremendous amount of airbrake components such as slack adjusters and valves each year during the prescribed tests. The following is a list of nine (9) major UP facilities where we have confirmed these types of practices:

- (1) North Platte, Nebraska;
- (2) West Colton, California;
- (3) Commerce City, California;
- (4) Little Rock, Arkansas;
- (5) Kansas City, Missouri;
- (6) Fort Worth, Texas;
- (7) Houston – San Antonio, Texas;
- (8) Chicago, Illinois; and
- (9) Hinkle, Oregon.

In addition, our information also contradicts the Carriers' claims that ASCTDs have been the reason why they have experienced significant improvements in the reduction of brake failures. For instance, UP recently identified that air brake hose separation was the biggest issue in brake failures which leads to UDEs. In response, UP installed two (2) programs on its system over the last year to address air hose separation. One (1) program created a bigger gasket that is more secure and harder to break and the other program redesigned the train line brackets.

Both of these programs are a top priority for UP and have greatly contributed to the decrease of brake failures. Given that our information shows that UP rarely uses ASCTDs at several of its major facilities, it is hard to believe that the Carriers can claim that the use of ASCTDs has significantly contributed to the reduction in brake failures for UP.

Moreover, our information concerning other railroads, which includes BNSF, is that there is a 30-35% defect rate for SCTs without respect to how they were tested. This is particularly alarming given that BNSF uses ASCTDs throughout its system in conjunction with MSCTMs unless the environmental conditions are not conducive to use ASCTDs. Yet, BNSF seeks relief to allow an additional year to go by without SCTs being performed.

Given the information just discussed, the Carriers' claim of a current 15 percent defect rate for SCTs using ASCTDs is also suspect. From our perspective, a 15 percent a year defect rate is still high. However, given that our information shows that UP does not possess the ability to perform numerous SCTs using ASCTDs and that BNSF has a 30-35% defect rate for SCTs using ASCTDs in conjunction with MSCTMs on a yearly basis, BRC does not see how the Carriers can claim that safety will be increased by requiring SCTs be performed every two (2) years. In fact, the requested relief may actually compound the already unsafe operation of freight trains.

Furthermore, the Carriers' emphasis on the graphs regarding airbrake shopping's and repeat failures is misplaced. First, these graphs relate to UP only; making them inapplicable to any relief request by BNSF. Moreover, the testing methodology of the graphs is flawed given that both the number of cars inspected and the years of the two (2) graphs are different. These variances taint the graph's substantive value. Lastly, the graphs are also suspect given that the information contained in them is inconsistent with the information we have received from our people in the field.

Finally, should this test waiver be granted, BRC also believes that both the operating crafts and the Carmen should be part of the data conferences held every six (6) months. Our participation would only serve to promote the safety of these inspections.

III. Conclusion.

The Brotherhood of Railway Carmen always welcomes the opportunity to participate in the regulatory process. Safety issues addressed in this process are among the primary concerns to the Carmen. In accordance with our commitment to maintaining safety on the nation's railroads, the BRC suggests that FRA deny the BNSF/UP petition for test waiver.