



August 21, 2014
(Via online at www.regulations.gov)

Docket Operations Facility
U. S. Department of Transportation
1200 New Jersey Avenue, SE, 12-140
Washington, DC 20590

Re: Docket No. FRA-2013-0034

**Comments of the
Brotherhood of Railway Carmen/IAM-(BRC)
American Train Dispatchers Association (ATDA)
Brotherhood of Locomotive Engineers and Trainmen (BLET)
Brotherhood of Maintenance of Way Employees Division (BMWED)
Brotherhood of Railroad Signalmen (BRS)
SMART-Transportation Division (SMART-TD)**

Dear Docket Clerk:

The Labor Organizations identified above are the recognized collective bargaining representatives of a significant majority of railroad industry workers engaged in train operations; train dispatching; and track and signal maintenance, inspection, and repair. Our collective memberships, all of whom are directly affected by the above-listed docket number, have a vested interest in railroad safety including issues related to 49 CFR Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. The above-named commenters, hereafter referred to as the Labor Organizations, are filing these joint comments in response to the above-referenced Docket No. FRA-2014-0034.

By letter dated March 25, 2014, Norfolk Southern Railway (“NS”) petitioned the Federal Railroad Administration (“FRA”) for a waiver from compliance with 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 (see FRA-2014-0034-0001).

For the reasons set forth below, we are requesting that the FRA deny the petition submitted by NS.

According to the *Federal Register* notice (see *Vol. 79, No. 140, July 22, 2014, 2014-17174*), NS seeks the following in its waiver petition:

Specifically, NS seeks a waiver of compliance from 49 CFR 232.215, Transfer train brake tests. This section states that a transfer train, as defined in 49 CFR 232.5, Definitions, shall receive a specified brake test performed by a qualified person before proceeding. NS seeks approval to perform a Class 3 brake test pursuant to 49 CFR 232.211(b) on freight cars that are in switch service between the NS Decatur Yard and Archer Daniels Midland's East Plant, West Plant, and New Yard (collectively "ADM") facilities, in Decatur, IL, instead of the specified transfer train brake test. The switch moves that are the subject of this waiver request range from 0.2 miles to a maximum of 0.9 miles.

See Fed. Reg. Vol. 79, No. 140, at 42630.

A "Transfer Train," is defined in Section 232.5 as meaning:

a train that travels between a point of origin and a point of final destination not exceeding 20 miles. Such trains may pick up or deliver freight equipment while en route to destination.

The cited regulation for which NS seeks relief states the following:

§ 232.215 Transfer train brake tests.

(a) A transfer train, as defined in §232.5, shall receive a brake test performed by a qualified person, as defined in §232.5, that includes the following:

(1) The air brake hoses shall be coupled between all freight cars;

(2) After the brake system is charged to not less than 60 psi as indicated by an accurate gauge or end-of-train device at the rear of the train, a 15-psi service brake pipe reduction shall be made; and

(3) An inspection shall be made to determine that the brakes on each car apply and remain applied until the release is initiated by the controlling locomotive. A car found with brakes that fail to apply or remain applied may be retested and remain in the train if the retest is conducted as prescribed in §232.205(c)(4); otherwise, the defective equipment may be moved only pursuant to the provisions contained in §232.15, if applicable;

(b) Cars added to transfer trains en route shall be inspected pursuant to the requirements contained in paragraph (a) of this section at the location where the cars are added to the train.

(c) If a train's movement will exceed 20 miles or is not a transfer train as defined in §232.5, the train shall receive a Class I brake test in accordance with §232.205 prior to departure.

Implicit in the rule in paragraph (c) above is that the term transfer train was designed for movements that were less than 20 miles. This is a less comprehensive test than a Class 1 § 232.205 test, but intended to maintain a level of safety due to a shorter distance, while

still taking the precaution to ensure all the brakes were functioning after leaving a facility or under the above scenario. Section 232.215 still carries the requirement of having a gauge or end-of-train device (“EOT”) to determine that the brake system is charged to at least 60 psi and to determine if the brakes apply after a 15 psi brake pipe reduction is made. It requires this without the clause that exists in Section 232.11(b)(4)(c) that allows for the absence of a gauge or EOT that determines brake pipe pressure on the rear of the train, if the rear car’s brakes are seen to apply and release.

The Section 232.211 language that NS would replace with the above is an appropriate measure when there is prior knowledge (due to prior air-brake tests) of the condition of each car’s air brakes. The regulation states:

§ 232.211 Class III brake tests-trainline continuity inspection.

(a) A Class III brake test shall be performed on a train by a qualified person, as defined in §232.5, to test the train brake system when the configuration of the train has changed in certain ways. In particular, a Class III brake test shall be performed at the location where any of the following changes in the configuration of the train occur:

(1) Where a locomotive or a caboose is changed;

(2) Where a car or a block of cars is removed from the train with the consist otherwise remaining intact;

(3) At a point other than the initial terminal for the train, where a car or a solid block of cars that is comprised of cars from only one previous train the cars of which have remained continuously and consecutively coupled together with the trainline remaining connected, other than for removing defective equipment, since being removed from its previous train that has previously received a Class I brake test and that has not been off air for more than four hours is added to a train;

(4) At a point other than the initial terminal for the train, where a solid block of cars that is comprised of cars from a single previous train is added to a train, provided that the solid block of cars was required to be separated into multiple solid blocks of cars due to space or trackage constraints at a particular location when removed from the previous train, and the cars have previously received a Class I brake test, have not been off air more than four hours, and the cars in each of the multiple blocks of cars have remained continuously and consecutively coupled together with the train line remaining connected, except for the removal of defective equipment. Furthermore, these multiple solid blocks of cars must be added to the train in the same relative order (no reclassification) as when removed from the previous train, except for the removal of defective equipment; or

(5) At a point other than the initial terminal for the train, where a car or a solid block of cars that has received a Class I or Class II brake test at that location, prior to being added to the train, and that has not been off air for more than four hours is added to a train.

(b) A Class III brake test shall consist of the following tasks and requirements:

(1) The train brake system shall be charged to the pressure at which the train will be operated, and the pressure at the rear of the train shall not be less than 60 psi, as indicated at the rear of the train by an accurate gauge or end-of-train device;

(2) The brakes on the rear car of the train shall apply in response to a 20-psi brake pipe service reduction and shall remain applied until the release is initiated by the controlling locomotive;

(3) When the release is initiated, the brakes on the rear car of the train shall be inspected to verify that it did release; and

(4) Before proceeding the operator of the train shall know that the brake pipe pressure at the rear of freight train is being restored.

(c) As an alternative to the rear car brake application and release portion of the test, it shall be determined that the brake pipe pressure of the train is being reduced, as indicated by a rear car gauge or end-of-train telemetry device, and then that the brake pipe pressure of the train is being restored, as indicated by a rear car gauge or end-of-train telemetry device. If an electronic or radio communication link between a controlling locomotive and a remotely controlled locomotive attached to the rear end of a train is utilized to determine that brake pipe pressure is being restored, the operator of the train shall know that the air brakes function as intended on the remotely controlled locomotive.

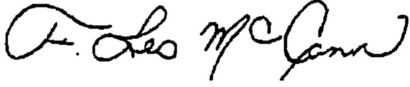
(d) Whenever the continuity of the brake pipe is broken or interrupted with the train consist otherwise remaining unchanged, it must be determined that the brake pipe pressure of the train is being restored as indicated by a rear car gauge or end-of-train device prior to proceeding. In the absence of an accurate rear car gauge or end-of-train telemetry device, it must be determined that the brakes on the rear car of the train apply and release in response to air pressure changes made in the controlling locomotive.

At the location where cars are moved between the NS Decatur Yard and Archer Daniels Midland's East Plant, West Plant, and New Yard (collectively "ADM") facilities, in Decatur, IL, NS is effectively seeking to redefine these cars to fall outside the "transfer train" definition and apply Section 232.211(b) instead. The labor organizations can see no reason to use Section 232.211(b) as the mandatory air test in this scenario for the reasons set forth by NS. The distances cited of between 0.2 and 0.9 miles would simply change the discussion from which air test provides more safeguards to a question of how far is too far, and set the stage for a never-ending series of waiver requests, each extending the distance yet another increment further, until the exception swallows the rule. This logic can be seen with other types of brake tests such as the 1,000 mile inspection. Currently, there is a waiver request made by another rail carrier to expand from 1,500 to 1,800 miles the distance between inspections. The required test has a long history of discussion regarding how long of a distance is the outside limit of acceptable risk. This can serve as an instructive example in the instant case. **See FRA-2014-0070.**

For these reasons, the labor organizations respectfully request that FRA deny the request for a waiver from compliance and not promote a path where expediency and convenience impose short cuts on safety. The men and women the labor organizations represent and

their experience has taught us that full compliance with FRA's safety regulations is the surest way to improve railroad safety.

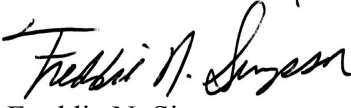
Respectfully submitted,



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