

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2015-0036

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

July 22, 2015

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 44 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 waiver. In addition, BRC also joins and supports the joint comments filed by rail labor regarding this matter as well.

The Union Pacific Railroad Company (UP) has petitioned the Federal Railroad Administration (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. In its petition, UP specifically requests relief allowing for the extended movement of trains to operate 21 to 180 additional miles beyond the 1,500 mile limit specified in section 232.213. UP states that the requested relief will ensure it continues to meet customer and national expectation for deliveries of coal, grain, intermodal and other commodities while safely allowing for improved fluidity with increased velocity. UP notes that similar relief was granted to BNSF Railway (BNSF) in docket number FRA-2006-24812. For the reasons discussed below, BRC requests FRA deny UP's petition for waiver.

II. Discussion.

UP's petition for waiver should be denied because the carrier has failed to show that the safety of both railroad workers and the general public will not decrease due to the requested relief. UP maintains that it should receive relief similar to that granted to BNSF in docket number FRA-2006-24812 because the carrier has proven over the past decade that its network of qualified inspector locations and array of wayside detectors provides the safety required to permit the requested relief. Despite its contentions, UP's petition for waiver is not the same as the situation in docket number FRA-2006-24812 and the information received from BRC representatives in the field indicates that UP's current network does not provide the level of safety required to support the requested relief. The union's position is based on the information provided below.

The first issue to discuss is the difference between UP's petition for waiver and the situation with BNSF in docket number FRA-2006-24812. In the BNSF situation, the carrier specifically worked with BRC to increase the number of mechanical inspectors who perform Qualified Mechanical Inspections (QMI's) throughout BNSF's network. In fact, BNSF addressed these efforts in its most recent request for relief regarding docket number FRA-2006-

24812 (BNSF letter dated February 6, 2015). There, the carrier provided the following information:

Mobile Mechanical Inspectors Completing Qualified Mechanical Inspections (QMI)

BNSF has partnered with the Brotherhood of Railway Carmen (BRC) to add mobile inspectors across the network in support of our inspection strategy to increase the mechanical inspections on BNSF. In 2014, BNSF added 45 mobile mechanical inspectors in Colorado, Wyoming and North Dakota. These mobile inspectors are completing QMI's where previously train crews were completing a Class 1 (brake inspections). These trained mechanical forces are the preferred resource to complete an inspection whenever possible. Adding these resources has reduced the number of train crew inspections and added QMI events. While most of these mobile inspectors added are currently supporting oil train inspections, the approval of this waiver petition will enable BNSF to add additional mobile mechanical inspectors in 2015 to our network to support the additional QMI events on coal & grain trains created by the slight increase in EH distance.

BNSF Increasing BRC Carmen Positions to Support 1800 mile EH inspections

BNSF has added BRC Carmen positions in key locations as many train inspections (QMI's) were moved from congested terminals to terminals with additional capacity on the North. In particular, BNSF has added 5 BRC Carmen positions in Superior, WI with plans to add 11 additional positions without any reductions in the workforce. BRC Carmen positions continue to increase system wide with 87 positions added in 2014. In adding these positions in new strategic locations made possible by the extended mileage, BNSF is facilitating the best possible inspection point to complete an actual QMI and reducing the potential exposure to real risks faced by train crews walking trains to completing (sic) a Class 1 brake inspection.

BRC is not in favor of the continuing erosion of the 1,500 mile inspection requirement extended haul trains. That being said, at least there have been steps taken by BNSF in docket number FRA-2006-24812 to bolster safety by increasing QMI's. On the other hand, UP has not provided the same assurances, nor does it claim that it will do so in its petition for waiver.

Moreover, the information received from BRC representatives in the field indicates that the carrier is not even performing enough QMI's under the current circumstances. First, BRC representatives at numerous inspection locations have complained that these stations are under staffed. For instance, UP just recently furloughed eight (8) employees from its daily mechanical workforce in Grand Junction, Colorado. The reduction in mechanical workforce will reduce the number of inspections conducted in Grand Junction thereby decreasing safety on UP's network.

Another location where mechanical workforce understaffing is a concern is at UP's Englewood Yard in Houston, Texas. BRC representatives maintain that the short staffing and the increased time it takes to inspect the brake rigging on intermodal cars has made it necessary for the inspections conducted at this location to be worked by "visual" inspections only as you roll by the intermodal cars. Moreover, there is a 1.2 minute imposed inspection time per car by

UP at the Englewood Yard. Such circumstances do not support the level of safety required to grant UP's petition for waiver.

Next, BRC has also received complaints from representatives at numerous locations that mechanical inspectors are not properly informed by UP management when a train is designated as an extended haul train. In fact, BRC has learned that in most locations, UP has trimmed the mechanical forces so thin that the message management puts out regarding the train's designation does not provide sufficient time to inspect the extended haul trains.

For instance, there is one (1) originating intermodal train that departs from the Englewood Yard in Houston, Texas. This train is given to the mechanical inspector to work in the field in the same manner as any other train and with little information regarding the car count, train symbol and track location. Without the correct information, mechanical inspectors are not able to inspect the cars properly, especially given the 1.2 minute time allotment per car imposed by UP.

The next issue concerns UP's claim that mechanical inspectors will be available 24 hours a day seven (7) days a week at the locations specified in its petition for waiver. The union's inquiries into this claim have revealed that some locations do not have mechanical inspectors working on third shift. For instance, UP does not have mechanical inspectors working third shift on either Saturday or Sunday in Van Buren, Arkansas.

In addition, BRC has also received information that UP may even turn off its wayside detectors at any time so that defects won't be detected at all. In fact, some BRC representatives have personally heard upper management make comments such as this for many years. If accurate, such facts only underscore the need for more QMI's on UP's network.

Finally, some BRC representatives were also concerned with certain safety statistics UP provided in its petition for waiver. In particular was the carrier's claim that it only had 50 walking and driving injuries over the past decade. BRC's field representatives believe these numbers would have to be confirmed by having UP provide the pertinent documentation to support such allegations.

UP alleges that it maintains a comprehensive network of mechanical inspector locations and wayside detectors that will ensure the safety of the trains falling under the carrier's petition for waiver. However, UP has failed to provide substantial evidence to support the requested relief. Based on the information provided above, BRC requests that FRA deny UP's petition for waiver.

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 UP petition for temporary waiver.