



July 21, 2015

(Via online at www.regulations.gov)

Docket Operations Facility
U. S. Department of Transportation
1200 New Jersey Avenue, SE, W12-140
Washington, DC 20590

Re: Docket No. FRA 2015-0036

**Comments of the
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)
Brotherhood Railway Carmen Division (TCU)
Sheet Metal, Air, Rail and Transportation (SMART)**

The six railroad labor organizations (“Labor Organizations”) identified above are the collective bargaining representatives of a vast majority of railroad industry workers engaged in train operations, train dispatching, and track, signal and mechanical maintenance, inspection, testing, and repair on passenger and freight railroads throughout the United States. The undersigned organizations and their individual and collective memberships have a direct safety interest in the outcome of this rulemaking. These joint comments are filed in response to the Petition for Waiver from compliance in Docket FRA-2015-0036.

This is in response to the Union Pacific Railroad Company (UPRR) petition to the Federal Railroad Administration (FRA) for a waiver from 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. Specifically, UPRR requests to extend the mileage limits specified for certain designated extended haul trains. *See* 49 CFR 232.213—Extended haul trains, Docket No. FRA-2015-0036.

In its petition, UPRR requests relief allowing for the extended movement of numerous trains to operate beyond the 1,500 mile limit specified in section 232.213 (a list of the proposed extended haul trains is posted to the docket at FRA-2015-0036-0001 in Appendix A to UPRR's petition). UPRR states that the requested relief will ensure they continue to meet customer and national expectations for deliveries of coal, grain, intermodal and other commodities, while safely allowing for improved fluidity with increased velocity. UPRR notes that similar relief was

granted to BNSF Railway in Docket No. FRA-2006-24812. UPRR further states that its proposal will result in a mileage increase of between 21 and 180 additional miles beyond the present 1,500 mile limit, and purportedly would involve less than 2 percent of UPRR daily train originations. Using Union Pacific's provided numbers in the waiver request to FRA (*see* FRA-2015-0036-001) trains on a five-year waiver approval trains will travel between 383,250 miles on the extreme low end for trains going additional 21 miles—to 3,285,000 additional miles for trains going 180 miles—all without inspection.

The Labor Organizations opposes the UPRR's request.

The rail industry in recent months has experienced a series of significant and high profile train derailments across the country, including some involving oil trains, which have resulted in substantial fires. It has been reported that broken wheels have caused several of these derailments. One of the best ways to prevent such derailments is to conduct frequent visual inspections of a train's wheels to look for colorization, which indicates that the wheel has previously overheated and is in a weakened state. Approval of this petition will result in fewer such train inspections, and thus, fewer opportunities to spot wheel fatigue and prevent potential derailments.

CFR 49 part 215.103 describes a defective wheel as follows: "A wheel on the car shows signs of having been overheated as evidenced by a reddish brown discoloration, to a substantially equal extent on both the front and the back face of the rim, that extends on either face more than four inches into the plate area measured from the inner edge of the front or back face of the rim." This type of defect can only be found by a visual inspection. According to the Association of American Railroads (AAR),¹ track caused accidents are down 47% from 1980 due to increased spending on infrastructure, down to roughly 50 accidents per million train miles in 2014. Using 2014's numbers that would mean you could expect that there would be anywhere from 19 train accidents on the low side (21 additional miles per train) to as many as 150 train accidents caused by track. Track conditions and brake function complement one another when considering how a train moves safely between any two points. Sticking brakes can cause a whole host of brake rigging, wheel and axle defects that degrade the rail over which trains travel. They are not the only considerations, but they are primary mechanical and structural areas of focus. With those kinds of accidents on the horizon, what interest would the public have in having brake equipment going longer distances without safety inspections? Union Pacific appears to suggest that FRA should grant its petition for reasons of equity because it granted a similar waiver to Burlington Northern Santa Fe Railroad ("BNSF"). *See* FRA-2006-24812. However, an equity consideration would have to be weighed against the additional risk being added to a system by potentially adding over 3 million train miles to the system in which air brakes go without inspection and testing.

¹ <https://www.aar.org/Pages/Rail-Investment-Leads-to-Fewer-Track-Caused-Accidents.aspx>

Railroads also know that their increased spending on infrastructure and equipment results in fewer derailments.² To attempt to cut costs by foregoing mandatory safety inspections would go against the trend cited by railroads where more dollars spent equals safer railroads.

Missing from UP's justifications are any explanation of advances in reliability of braking equipment that would justify traveling further before inspections are made. Calling for fewer inspections because an employee may be injured in the course of conducting the inspection creates a vicious circle. It seems UP is arguing a proposition where fewer inspections equal decreased risk to inspectors. One problem with that approach is that it fails to follow where that risk is transferred. Moreover, the logical extension of that argument is that if all brake inspections are eliminated, then all injuries to car inspectors occurring during brake inspections would be eliminated. How would UP account for the risk that is transferred onto a crew operating a train with equipment that has not been inspected at the proper intervals? The answer is not in the carrier's request to FRA. Further by adding potential millions of train miles of trains where brakes go uninspected we could reasonably suspect that there would be fatalities within those miles travelled. Train fatalities are measured in millions of miles. In effect the UP would be trading walking injuries for train fatalities per millions of miles.

UP did cite their entire network of wayside detector sites. The coverage numbers are impressive; however, they focus on UP's entire system. The locations where the actual trains may run will have far fewer detectors and those detectors functionality is not governed by federal regulations or FRA. About their system use of detectors, UP says:

"Since the original implementation of 'Extended haul trains', Union Pacific has invested in excess of \$300 million on wayside detectors, hardware and software in the deployment of a comprehensive wayside detector network. Union Pacific maintains an occupied Mechanical Help Desk 24/7 that analyzes 20 million bytes of data daily performing continuous monitoring and preemptive actions as needed. In addition to the audible alerts directed toward crews from the detectors, the Desk communicates with Corridor Managers and Dispatchers concerning train status with necessary actions upon alert. The wayside sites currently include an array of 1,500 Hot Box Detectors, 1,000 Automated Equipment ID readers, 2,000 Dragging Equipment Detectors, 17 Wheel Impact Load Detectors, 7 Acoustic Bearing Detectors and 4 Wheel Profile Detectors that provide coverage points approximately every 15 miles of Union Pacific mainline."

See FRA-2015-0036-0001.

Union Pacific and AAR already have attempted to convince the public they were doing the right thing in the public hearing held on July 19, 2013. Here, UP and AAR brought no evidence of new technology, no agreement with any labor organization and no demonstration as to why they would argue yet again that non-regulated wayside detector technology was a replacement for brake inspections. While FRA cited potential for safety of wayside detector technology and citing examples of how it helped detect brake defects, FRA also declared in denying the waiver:

² <https://www.aar.org/Pages/Rail-Investment-Leads-to-Fewer-Train-Derailments.aspx>

“Additionally, the Board finds that the use of Wayside Detectors (“WTD”) does not replace the inspections at a Class 1A brake test. It is unclear from the petition and supporting documentation how WTD alone would provide an equivalent level of safety to the current Class 1A brake test. The wayside detectors and Class 1A brake tests serve complementary, but different functions.”

See FRA-2013-0080.

It should be noted that Class 1 and Class 1A brake tests differ for when they are performed and what they require. Class 1 tests are generally regarded as more extensive. Another justification by UP that misses the mark is one of crew rest. Quality of crew rest has never been cited in any sleep science with being linked with train air brake tests. If anything, knowing a brake test is required at regular intervals (rather than the irregular intervals and trains in the waiver request, provides great predictability of where trains will stop for inspections. Unpredictable start times and fatigue in the railroad industry have been scientifically linked in studies by FRA.

Currently, the regulatory requirement for inspections of trains designated as extended haul trains is 1,500 miles. We are disappointed that FRA granted BNSF a waiver in 2007 for some trains to be inspected every 1,603 miles, despite our formal protest. BNSF recently requested a waiver to extend some inspections to every 1,702 miles. Not wanting to be left out, UPRR has followed suit. We suspect the next request will be 1,800 miles or more with no end in sight for future requests.

It appears that both of these railroads are seeking to market train service contracts by tailoring mechanical inspection schedules for their convenience rather than complying with minimal inspection requirements.

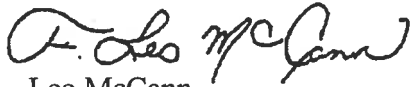
During current 1,000-mile and 1,500-mile inspections it is common to find several bad-order cars in a train that need repair. One bad-order car on a train has the potential to cause an incident, let alone numerous bad-orders on the same train. Extending the mileage allowance only increases the risk of having one of those bad-order cars cause a derailment, or worse.

There is no public benefit to granting this waiver request. There is no enhancement to safety if this request is granted. Reducing train inspections at a time when rail security and safety are at the center of national awareness is irresponsible and not in the public interest.

For the reasons stated above, the labor unions ask that the FRA deny this waiver request and the next ones that are sure to follow.

Thank you in advance for considering our views.

Respectfully submitted,



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