

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2021-0042

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

June 7, 2021

Comments of the
American Train Dispatchers Association (ATDA)
Brotherhood of Railway Carmen Division, TCU/IAM (BRC)
Brotherhood of Locomotive Engineers and Trainmen / IBT

I. Introduction.

The railroad Labor Organizations identified above (Labor Organizations) are the collective bargaining representatives for various railroad workers on passenger and freight railroads throughout the U.S. The Labor Organizations appreciate this opportunity to participate in the regulatory process, and bring 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 Federal Railroad Administration's (FRA) safety regulations is the surest way to improve railroad safety and, to that end, the Labor Organizations will address the safety and other issues raised by this petition for waiver. In addition, the Labor Organizations would also like to note that we support the comments filed by the Transportation Trades Department, AFL-CIO.

The Union Pacific Railroad Company (UP) has recently 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, UP requests relief from 49 CFR 232.203, *Training requirements*, to allow its Class I Brake Test Simulation proficiency demonstration as a method to satisfy the required "hands-on" training component of periodic refresher training. UP states that its blended brake system training curriculum exceeds the training objectives of the regulation and is designed to increase user proficiency. For the reasons discussed below, the Labor Organizations request FRA deny the UP petition for waiver.

II. Discussion.

The UP petition for waiver should be denied because the carrier has failed to show that the requested relief will afford the same level of safety to both railroad workers and the general public that 49 CFR 232.203(b)(8) currently provides. According to UP, the Class I Brake Test Simulation is designed to place a user into a realistic 3D virtual scenario. The user must maneuver in the virtual setting and perform all inspection tasks. For example, the user must communicate on a virtual radio, listen for the proper brake responses and visually inspect each car in the scenario. UP has developed 3D models of brake types, and each scenario requires the user to inspect randomized samples of those brake types. To successfully complete the scenario, a user must identify key components and identify and correct all defects (e.g. closed cut-out cocks, uncoupled air hoses, closed angle cocks, wrongly positioned retaining valves, fouled brake rigging, etc.). The Class I Brake Test Simulation will be presented through web-based training with, or in a group setting led by, a designated instructor who is available to answer questions.

UP proposes to implement the Class I Brake Test Simulation system-wide as a third alternative to satisfy the 49 C.F.R. § 232.203 requirement for periodic "hands-on" refresher training for its Transportation employees. UP Transportation employees will satisfy the brake system "hands-on" refresher training requirement by successfully completing one of three options: 1) be observed and evaluated during actual performance of duties, 2) attend a designated

instructor led training session or, as proposed, 3) successfully complete the Class I Brake Test Simulation.

It is the position of the Labor Organizations that simulated testing should be used only as a supplement to, and not a replacement for, the “hands on” training currently required by 49 CFR 232.203(b)(8). While a 3D simulation described by UP could be helpful, it cannot replace the “hands on” training that railroad employees currently receive in the field. For example, training in the field provides variable challenges such as weather or incidents where an inspector’s olfactory senses are useful in conducting inspections. These are factors that a computer cannot simulate.

UP has offered nothing in the way of persuasion to move anyone away from the use of current methods. This also would not preclude UP from including new methods as a way to bolster current ones they consider outdated, but offer no reason as to why that is the case. Car availability is a poor justification to not provide hands on training. Railroads such as UP have billions of dollars in assets and plenty of rolling stock available for training. Here is what UP says in their submission:

“UP currently provides classroom training and testing as part of the periodic training required by 49 C.F.R. § 217.11 and ‘hands-on’ training through observation and evaluation of actual performance of duties or through supervisor-led training events. UP has found that current methods of ‘hands-on’ brake system training and testing in accordance with 49 C.F.R. § 232.203 are inefficient and outdated. Due to railcar availability within the UP network it is often difficult to provide a consistent training and testing environment in regard to car selection, defects, and availability. Finally, a group setting is not as conducive to learning as one-on-one training, which the proposed training offers.”

See FRA-2021-0042-0001. UP further states:

“The proposed virtual training concept closely parallels current Locomotive Engineer simulator training, which allows a user to experience a broad range of conditions, including uncommon conditions, which might be encountered in the field, ensuring the user is exposed to the most demanding type of service they may perform through the simulated exercise.”

Id. Finally UP’s submission to FRA says:

“UP proposes to implement the Class I Brake Test Simulation system-wide as a third alternative to satisfy 49 C.F.R. § 232.203 periodic hands-on refresher training for Transportation employees. UP Transportation employees will achieve the brake system ‘hands-on’ refresher training requirement by successfully completing one of three options: 1) be observed and evaluated during actual performance of duties, 2) attend a designated instructor led training session or, as proposed, 3) successfully complete the Class I Brake Test Simulation.”

Id.

UP offers no data or other evidence to support its statement that group settings are inferior to one-on-one training; in fact, all railroads have been engaged in group training for many years and have argued in the past that it takes too many resources to train people one-by-

one. Nor does UP cite which methods of “hands-on” training are “outdated and inefficient.” No specific training measure is identified as being out of date.

UP also apparently has not explored other, more efficient “methods of hands-on training” before casting aside hands-on training itself in the instances where they choose an “alternative method.” The Labor Unions have welcomed new ways of training through the use of novel instruments. But the Labor Unions have also been advocates of a “complementary method” rather than “in lieu of” methods. The carriers may be quick to pounce on some form of training “redundancy,” as inefficient. Training often requires redundancy and repetition. The same can be said for railroad safety writ large.

Moreover, should the relief be granted, UP’s proposal will have far reaching implications not only to its own operations but to possibly all rail carriers operating in the U.S. as well. First, UP will be implementing the computer simulations system wide to all UP Transportation employees.

The requested relief would thus allow all UP personnel who work on its equipment to use 3D simulations for refresher training at a time when we know little about the technology’s efficacy. In addition, other carriers could also request the same or similar relief creating more of the same safety issues.

Changing the training requirements currently provided for in 49 CFR 232.203(b)(8) is a serious endeavor and the utmost precautions and transparency should be taken when evaluating such a request for relief. Accordingly, based on the information provided above, the Labor Organizations request FRA deny the UP petition for waiver.

III. Conclusion.

The Labor Organizations always welcome the opportunity to participate in the regulatory process. Safety issues addressed in this process are among the primary concerns to the Labor Organizations. In accordance with our commitment to maintaining safety on the nation’s railroads, the Labor Organizations urge that FRA deny the UP petition for waiver.