

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2018-0075

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

January 3, 2019

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 48 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 other comments filed by rail labor regarding this matter as well.

CSX Transportation (CSX) 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; End of Train Devices. Specifically, CSX requests relief for certain trains from the requirements of section 232.205, Class I brake test-initial terminal inspection, and section 232.207, Class IA brake tests—1,000-mile inspection. For the reasons discussed below, BRC requests FRA deny CSX's petition for waiver.

II. Discussion.

CSX'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. CSX requests an extension of the mileage limits for certain trains listed in Attachment A of its petition from 1,000 miles, as specified in sections 232.205 and 232.207, to 1,052 miles. CSX also requests that qualified persons (instead of qualified mechanical inspectors) be allowed to inspect these trains, and that these trains be allowed to make multiple pick-ups and set-outs. CSX states that allowing the identified trains to travel up to an additional 52 miles before completing the Class IA brake test will not compromise the safety of CSX operations, or increase the risk of an accident or incident, or jeopardize the safety of its employees or the general public.

The Power Brake regulations were last amended in 2001. (66 FR 4104) There, FRA issued revisions to the regulations governing the power braking systems and equipment used in freight and other non-passenger railroad train operations. These revisions included procedures for tests and inspections regarding extended haul trains under section 232.213. The trains that are covered by section 232.213 are permitted to go over 1,000 miles if they are designated as extended haul.

CSX does not want these trains designated as extended haul so that the carrier can avoid the requirements of section 232.213. Simply put, this is not adequate justification to support the waiver for certain trains from the requirements of section 232.205, Class I brake test-initial terminal inspection, and section 232.207 Class IA brake tests—1,000-mile inspection. Indeed,

nothing has changed in the industry since the revisions were made in 2001 to justify departure from the proscriptions required by the current regulations. If CSX wants to run trains over 1000 miles then the requirements of section 232.213 should apply.

CSX has two (2) chief complaints as to why the carrier cannot comply with section 232.213. First, CSX claims that, under the requested relief, the tests and inspections may have to be performed by a “qualified person” instead of a “qualified mechanical inspector” as currently required under section 232.205. This statement particularly concerns BRC because BRC represented carmen are qualified mechanical inspectors who work on these lines. These carmen are properly trained and certified to perform the necessary tests and inspections. Accordingly, it is not realistic to believe that having a qualified person under the requested relief will ensure safety at least equivalent to what is required under section 232.213.

Second, the carrier also maintains that it cannot comply with section 232.213 because CSX may require this train to make multiple pick-ups and set-outs, which are not permitted under the section. However, such relief could have dangerous consequences. For example, CSX could run a 1052 or 1500 mile rail system by picking up multiple cuts of cars at terminals manned by carmen that would currently be required to perform the Class I air test as mandated by the current regulation. CSX, through its continued curtailing of the hump operations and movement toward switching blocks of cars, is in a position to consistently maintain the air on these cuts. The switching of cuts from train to train without the requirement for an air test under the proposed regulatory relief would allow cars that currently receive a Class I air test to go with air apparatuses continually uninspected. Additionally, with the allowance of multiple pickups, the relief would blur the line of what exactly is an originating train. As such, trains could virtually disappear as their freight is absorbed into the proposed CSX blocking system.

There are some other points to note as well. First, CSX could use this relief to eliminate inspection points where our carmen perform tests and inspections. Such eliminations will not only cause carmen to lose their work but would also lower the safety requirements for CSX trains. Second, if the requested relief is granted, other carriers could also request the same or similar relief. This will lead to a continued erosion of railroad safety standards that were designed to protect both railroad workers and the general public.

III. Conclusion.

The Brotherhood 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 CSX petition for waiver.