

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2020-0001

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

February 11, 2020

STATEMENT OF RICHARD A. JOHNSON, GENERAL PRESIDENT,
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TRANSPORTATION COMMUNICATIONS UNION/IAM

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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 49 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.

The Canadian Pacific Railway (CP) 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, CP proposes to implement a virtual simulation as a third alternative to satisfy the "hands-on" portion of periodic refresher training required by 49 CFR 232.203(b)(8). Refresher training is required at intervals not to exceed three (3) years, and shall consist of classroom and hands-on training, as well as testing. For the reasons discussed below, BRC requests FRA deny the CP petition for waiver.

II. Discussion.

The CP 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 CP, the simulation is based on performance of a Class I freight air brake test and is designed to place the user in a virtual realistic scenario. The user is required to perform a variety of inspection tasks including, but not limited to, identifying closed cut-out cocks, uncoupled air hoses, closed angle cocks, improperly positioned retainer valves, and using a two-way end of train telemetry device. Users are required to successfully complete all tasks in the scenario. CP proposes to limit the class size to 12 students and seeks to apply this waiver system wide to all CP operating personnel (e.g., trainmen, enginemen, and field supervisors responsible for performing freight air brakes tests.)

It is the position of BRC 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 3-D simulation described by CP is beneficial, it cannot replace the "hands on" training that railroad employees currently receive in the field. For instance, training in the field provides varying 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.

Moreover, should the relief be granted, CP'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, CP will be implementing the computer simulations system wide to all CP craft personnel

responsible for performing freight air brakes tests, including supervisors, freight car repair personnel, and conductors. This means that a significant amount of CP personnel will be using 3-D 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 upmost precautions and transparency should be taken when evaluating such a request for relief.

Finally, BRC would also like to comment on the carrier's choice to supply only a redacted copy of its petition for waiver to the public docket. This factor makes it truly impossible for interested parties to comment on positions that may or may not be relevant to them. In fact, BRC believes that FRA should only consider the information offered in the redacted version and the information provided by interested parties regarding the redacted version in making its decision on this waiver request. Accordingly, based on the information provided above, BRC requests FRA deny the CP petition for waiver.

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 CP petition for waiver.