

Comments of the
Transport Workers Union of America, AFL-CIO

Before

The

U.S. Department of Transportation

Federal Railroad Administration

Docket No. FRA-2018-0075

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CSX

Petition for a Waiver from 49 CFR § 232.205; 232.207

SUBMITTED BY THE CSX Railroad

September 26, 2018

Transport Workers Union of America



Railroad Division
501 3rd Street, NW – 9th Floor
Washington, D.C. 2001

January 02, 2019

The Transport Workers Union of America, AFL-CIO is submitting these comments in response to the Federal Railroad Administration's December 4, 2018 notice announcing an CSX Transportation Inc. (CSX) Petition for Waiver of Compliance from certain provisions of the Federal railroad safety regulations, 49 CFR 232 -Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment. Reference Docket FRA-2018-0075 (*FR Vol. 233, No. – 12/04/2018*).

Background

The TWU represents Carmen on several freight railroads, commuter railroads and the National Passenger Rail Corporation (Amtrak). TWU representatives also participate on the Federal Railroad Administration's Railroad Safety Advisory Committee (RSAC). Moreover, TWU has been deeply involved with power brake rulemakings. Beginning with FRA's December 31, 1992 Advance Notice of Proposed Rulemaking (*57 FR 62546*) TWU participated in workshops conducted by FRA leading-up to FRA's September 16, 1994 Notice of Proposed Rulemaking (*59 FR 47676*), and hearings that followed. Beginning in 1996 TWU was deeply involved on the Power Brake Working Group, tasked by the RSAC to assist FRA in the development of revisions to the regulations governing power brake systems for freight equipment, participating in numerous working group sessions through 1997 and beyond, leading-up to FRA's Final Rule governing Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices published January 17, 2001 (*FR Vol. 66, No. 11*). Given this background, TWU is well versed with FRA's safety regulations governing the inspection and testing of freight train braking systems.

CSX Transportation (CSX) Petition for a Waiver of Compliance from 49 CFR 232.205, 232.207

As stated in the CSX's September 26, 2018 petition for waiver, CSX Transportation seeks a waiver from compliance with 49 CFR § 232.205 – Class I Brake Tests (Initial Terminal Inspection), §232.207 – Class 1A brake tests – 1000-mile inspection.

CSX seeks to extend the current 1000-mile inspection to add up to an additional 52 miles and included a list of 66 proposed trains for extension in their attachment A. The petition does not include any reasoning to warrant such a change. CSX Transportation is a major freight hauler, and the consist of these cars, material being hauled (Bulk, Chemical, Flammable, Toxic), as well as the weight plays a major factor into the standard to have an inspection within the 1000-mile standard, as contained in 49 CFR § 232.207.

While CSX states “CSX believes that allowing these identified trains to travel up to an additional fifty-two (52) miles before completing a Class 1A brake test will not compromise the safety of CSX operations, does not increase risk of an accident or incident, nor jeopardize employees or the general public.” We have to point to the past 2-year record to dispute that statement. While each if these cases may or may not be the fault of the Carrier, accidents do happen.

2017 Biloxi collision with tour bus stuck on tracks, 4 killed 44 injured

2017 Newburgh, New York train derailment, 2 minor injuries

2017 Hardin County train derailment, 23 cars derailed, no injuries

2017 Crawford County train derailment, 21 cars derailed, no injuries

2017 Pittsburgh suburb coal cars derailment

2017 Hyndman derailment, chemical release and fire

2017 Atlanta derailment destroys occupied home

2017 Polk County, FL derailment spilling molten sulfur, no injuries

2017 Taunton, MA derailment rail hits fuel tank, spilling everywhere

2017 Union, New Jersey derailment, no injuries

2018 Cayce, SC collision involving Amtrak Silver Star and a CSX auto rack train 2 dead, 116 injured

2018 Alexandria, Virginia - May 19, 2018. Train derails in Alexandria falling onto Norfolk Southern tracks that cross underneath it

2018 Worcester, Massachusetts - 7/21/18 CSX Intermodal train from Worcester, MA hits a low overpass causing 12 cars to derail, one car almost hitting a car full of toxic chemicals. Engineer injured.

They also seek relief from having a “qualified mechanical inspection”, to have a “qualified person” preform Class 1A brake test if a qualified mechanical inspector is not available. The TWU would object to such a request, in order to determine the qualified person 49 CFR § 232.203 sets standard of training that the Railroad is responsible for. The purpose of 49 CFR § 232.205 is to have the most qualified person who has received instruction, training, and qualifications on this equipment. If it is the intent of CSX to have a Train Crew member preform these inspections, they are not qualified in the aspect of mechanical

inspection. This waiver is an attempt to skirt having the Carmen craft preform the required Class 1A brake test at this terminal.

Finally, while not contained in the initial request or summary, CSX also requests relief from 49 CFR § 232.213 to be allowed to make multiple pick-ups and set-outs. In order for CSX to designate a train as a Long Haul it must meet criteria as defined in 49 CFR § 232.213 and asking for relief from section 5 of that regulation deteriorates the criteria, this request should be rejected as well.

This petition is vague at best and allowing such a waiver with limited information is a dangerous path to take, the safety ramifications could be tremendous, if this waiver is granted by extending the 1000-mile limit §232.207, skirting the requirements of who performs the Class 1A Brake inspection § 232.205, and to allow Long Hauls multiple pick-ups and set outs § 232.213.

Based on the foregoing, and in the interest of maintaining safety on the nation's railroads, the Transport Workers Union of America respectfully urges that FRA reject this CSX Transportation petition (FRA-2018-0075)

We appreciate this opportunity to participate in this important "safety related" regulatory proceeding.

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