



A bold voice for transportation workers

February 7, 2022

Carolyn Hayward-Williams
Director, Office of Railroad Systems and Technology
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: Petition for Extension of Waiver of Compliance
FRA-2016-0018**

Dear Ms. Hayward-Williams,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's notice regarding Union Pacific's petition for extension of a waiver of compliance. TTD consists of 36 affiliate unions representing workers in all modes of transportation, including carmen and other rail workers who work on lines covered by this waiver.¹

In its petition, UP requests to extend a 2017 waiver of compliance to continue using wheel temperature detectors (WTD) on a segment of UP track to measure potential safety improvements and cost reductions on brake testing and maintenance. This waiver differs from current rules that state that extended haul trains are permitted to move a train up to, but not exceeding, 1,500 miles between brake tests and inspections. 49 CFR 232.213(a). In addition, current rules require that equipment with defective or insecure power brakes only be moved from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made (49 CFR 232.15 and 49 U.S.C. 20303), and each car in a train must have the air brakes in effective operating conditions unless the car is being moved for repairs in accordance with 49 CFR 232.15 (49 CFR 232.1 03(f)).

TTD urges FRA to deny this petition. In the five years that this waiver has been in use, UP has failed to gather and provide any evidence for review that the waiver should be renewed. Without any useful data from UP's Test Waiver Committee to support the extension, we do not believe that the continued use of WTD technology is a safe and acceptable substitute for physical inspections by trained Carmen.

¹ Attached is a list of TTD's 36 affiliated unions.



Despite UP's assurance "that operations of trains under the waiver have demonstrated a significantly positive effect on the safety of train operations," railway workers have witnessed significant safety concerns including UP failing to provide Carmen with the required list of priority test trains that need to be inspected and passing this duty onto the lead tower Carman or lead Carman who are both over tasked with other duties or do not have access to create the list. When UP does provide Carmen with a list of defects to inspect, Carmen are finding numerous and significant defects the wheel temperature detectors failed to detect after physical inspection by Carmen.

Because UP has failed to provide any data regarding the safety and effectiveness of WTD technology, we must rely on the experience of our members, which has shown that WTD technology fails to detect serious hazards. Wheel temperature detectors only measure the temperature of a wheel and UP has wholly failed to detail how they can be an adequate substitute for physical inspection by Carmen. Under the current waiver, trains are running miles of track without being inspected and when they are, the detectors are not capturing all of the defects.

Multiple rail labor unions [filed comments](#) in opposition to the initial granting of this waiver in 2016. In those comments, we raised concerns that WTD technology was being used in lieu of physical inspections instead of being used as a tool to increase safety alongside the use of time-tested and proven physical inspections to maintain safety. The concerns originally raised in 2016 were not answered and have only been proven out over time. It is our position that WTD technology serves a complementary function to physical inspection and does not in any way serve as a replacement.

In 2014, the FRA itself found that ["the use of the WTD does not replace the inspections done at a Class 1A brake test."](#) FRA further stated that "wayside detectors and Class 1A brake tests serve complementary, but different, functions." We agree with FRA's determination in docket FRA-2013-0080 that a WTD cannot replace physical inspections because WTD technology often lacks reliability and cannot check each safety component the way trained inspectors can.

In their [2020 comments regarding WTD technology](#), SMART-TD raised concerns that WTD devices that frequently detect defects were being turned off or tampered with. Occasional failure of the WTD technology is to be expected, as with any technology, and this would not pose significant danger unless the WTD technology was being used to replace physical inspections - as it is. Given this, catastrophic failures are possible simply because WTD is not as accurate or sensitive as physical inspections by trained workers. FRA and UP have a duty to ensure that trains are held to high standards of safety and are frequently inspected to ensure this standard. Since granting of the waiver, UP has had ample opportunity to prove that WTD technology is an effective replacement for physical inspection, however UP has failed to gather such data because this data does not exist. Further, interim reporting from UP during the course of this waiver has failed to address the abundant deficiencies and concerns posed by the overreliance on WTD technology that we have raised here.

Without sufficient evidence from UP to ensure safety, we believe it is FRA's responsibility to ensure the safety of railroad employees and the nation's rail system by denying the extension of this petition.

We appreciate the opportunity to comment on this petition and look forward to working with the administration going forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', written over a circular stamp or mark.

Greg Regan
President