



A bold voice for transportation workers

January 25, 2023

John Karl Alexy
Associate Administrator
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: NS Petition for Extension of Waiver of Compliance
Docket No. FRA-2011-0052, FRA-2017-0017**

Dear Associate Administrator Alexy:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) notice regarding Norfolk Southern's (NS) petitions for waiver of compliance from 49 CFR 236.566 to allow unequipped locomotives to operate in its Keystone Division and several other control points. TTD consists of 37 affiliated unions representing the totality of rail labor, including both passenger and freight rail workers.¹ TTD endorses the comments of our affiliate, the Brotherhood of Railroad Signalmen (BRS).

As TTD has commented before, positive train control (PTC) and centralized traffic control (CTC) technologies provide an additional layer of safety for rail workers and the public.² The National Safety Transportation Board (NTSB) first recommended that PTC be required in 1969 and Congress subsequently put into place the PTC mandate in 2008 because it saves lives and reduces injuries. Furthermore, these are not new technologies. CTC has been around since 1927 and the Class I railroads, including NS, have widely installed CTC across their networks.³ NS's petition for a waiver of compliance undermines the progress that has been made over the past few decades

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

² <https://ttd.org/policy/getting-our-nations-freight-rail-system-back-on-track/>
<https://ttd.org/policy/the-need-for-modern-rail-safety-legislation/>
<https://ttd.org/policy/policy-statements/reform-agenda-make-rail-transportation-safer/>

³ See [CTC: Remotely directing the movement of trains | Trains Magazine](#)

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer



in installing signal systems that make our rail system safer. That is why the continued permission from the FRA to NS to operate this equipment without modern signal systems undermines the safety of rail workers and the general public and is counter to the safety mission of the FRA.

In the data that NS submitted to support its request, there are numerous examples of derailments and other safety failures that could be potentially mitigated by PTC systems, such as misaligned switches and signals reading incorrectly. Even at 20 miles per hour (mph), which is the speed NS is allowed to operate at under the FRA's previous waiver it granted to NS in 2017, these derailments, collisions, and other failures can prove fatal. Even a locomotive not connected to any other cars can weigh over 200 tons. Locomotive equipment is inherently dangerous due to its size and weight.

Railroad operations are safer when modern safety systems like PTC and CTC are installed and active. NS's petition doesn't identify any operational reasons why PTC and CTC cannot properly function in the territory they are seeking a waiver for compliance from and NS has plenty of experience using PTC and CTC in other locations across its network. This context raises concern about why NS is trying to avoid installing these systems. Norfolk Southern made \$1.3 billion in the last quarter of reported earnings so it can surely afford to install them.⁴ TTD believes this is another example of a Class I railroad seeking to find any way possible to cut costs to increase profits, even at the expense of safety.⁵

As BRS pointed out in its comments, and as NS openly acknowledges, NS failed to submit its extension request under docket FRA-2011-0052 in a timely manner prior to the expiration of its previous waiver. In its letter, NS further states that it would like to combine multiple existing waivers to simplify and streamline the recordkeeping process. When one of the largest railroads in the country has trouble keeping up with the number of waivers it has, that indicates that there are simply too many waivers.

Regulating through individual waivers instead of codified regulations creates a patchwork system that is not transparent to the public and actively degrades safety. Safety regulations exist for a reason, and they are often created after a catastrophe demonstrates the precise need for regulations and the consequence of operating without such safety rules. When workers are forced to comply with sometimes vastly different operating rules between carriers, equipment, or locations, that lack of uniformity can cause confusion and lead to unintentional errors.

TTD urges the FRA to fundamentally take a different approach to waivers. Individual waivers should be evaluated as temporary measures to address immediate safety and operational needs until the railroad can approach the Rail Safety Advisory Committee (RSAC) or another negotiated regulatory process to explain the situation in full detail so that all stakeholders can provide input to collectively arrive at the safest operating procedures and apply those procedures system-wide.

⁴ See [Norfolk Southern reports third quarter 2022 financial results | Newsroom | Norfolk Southern \(nscorp.com\)](#)

⁵ <https://ttd.org/policy/precision-scheduled-railroading-threatens-to-gut-americas-freight-rail-system/>

If NS, or any other railroad, believes that the existing safety regulations that have been finalized through a rigorous negotiation and public comment process are inadequate or unnecessary to meet current needs, there is an established process to initiate regulatory changes through RSAC.

For the reasons above, TTD asks the FRA to deny NS's petition for a waiver of compliance. We appreciate the opportunity to comment on this docket and look forward to working with FRA in the future.

Sincerely,

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

Greg Regan
President