



Transportation Trades Department, AFL-CIO

Jan 8, 2024

Mr. Karl Alexy  
Associate Administrator for Railroad Safety & Chief Safety Officer  
Federal Railroad Administration  
1200 New Jersey Avenue SE  
Washington DC, 20590

**RE: Union Pacific Extension of Waiver of Compliance, Extended-Haul Trains  
Docket No. FRA-2015-0036**

Mr. 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 Union Pacific Railroad Company's (UP) petition to extend its waiver from certain provisions contained in 49 CFR 232.213. The current waiver allows UP to operate designated extended-haul trains for distances of up to 1,680 miles, beyond the limit of 1,500 miles stipulated in the regulation. TTD consists of 37 affiliated unions, representing the totality of rail labor, including UP employees.<sup>1</sup> For the reasons outlined below, we ask that the FRA deny Union Pacific's petition to extend its waiver.

In support of its request, UP states that it reviews with the FRA "the list of trains associated with this waiver at a frequency of no less than once per quarter" and "adjustments are made accordingly." UP further explains that "over a 56-month period, the incident rate has been no more than .055%, [which were] four events comprised of wheelset, axle, and journal bearing defects." Per the federal statute governing the Secretary's ability to grant safety waivers, the Secretary may grant waivers only "if such waiver or suspension is in the public interest and consistent with railroad safety."<sup>2</sup> UP acknowledges in its waiver extension request that the trains covered by the existing waiver had a higher incident rate, .055%, than extended-haul trains that undergo inspections of 1,500 miles. These trains had a lower incident rate of .036%. While UP claims the difference is "negligible," it is unwise to claim that additional accidents are negligible, as evident by the East Palestine, Ohio derailment. Delaying required mechanical testing and inspection unequivocally exposes workers and the communities along UP's rail lines to unnecessary risk and lacks consistency with railroad safety.

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<sup>1</sup> Attached is a complete list of TTD's affiliated unions.

<sup>2</sup> Section 20103(d) of Title 49, United States Code

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer

UP's recent record on mechanical inspections and safety is poor, further reinforcing the fact that this waiver request is not consistent with railroad safety or in the public interest. Last summer, the FRA performed a focused inspection of UP mechanical operations and rolling stock and determined "the defect ratio of freight cars was 19.93 percent and 72.69 percent for locomotives (which are both twice the national average)." <sup>3</sup> In a letter to UP detailing the results of the inspection, FRA Administrator Bose expresses significant concern about UP's apparent lack of willingness or ability to address these safety issues. Administrator Bose also notes that "UP recently furloughed 94 locomotive craft employees and 44 carmen across the system based on UP's claims of receding volumes and lack of demand for service." Union Pacific does not possess the adequate staffing capacity necessary to ensure that railcar and locomotive inspections and repairs are done properly. Furthermore, UP is not in a position to increase the number of workers who do this important work. For example, the number of Machinists, a shopcraft who perform certain types of locomotive repairs and inspections, on Union Pacific is at an all-time low and they only have 15 Machinist apprentices throughout their entire system.

The National Transportation Safety Board's (NTSB) hearing on the East Palestine derailment last June highlighted the lack of inspections that the rail cars in that train received, with most of them not receiving a full mechanical inspection before being added to the train. The wheel bearing in the East Palestine incident increased over 200 degrees fahrenheit in temperature in 30 miles, including increasing by over 150 degrees fahrenheit in just 20 of those miles. <sup>4</sup> In a post-derailment inspection, the FRA found defects in 25% of the 77 cars it reviewed and it is extremely likely that a full inspection performed by a Qualified Mechanical Inspector would have found those defects, if given the opportunity. <sup>5</sup> These same concerns exist on Union Pacific. The FRA noted in its recent letter to UP, "with fewer qualified mechanical inspectors (QMI) to inspect locomotives and cars, FRA expresses a genuine and urgent concern that compliance with Federal Regulations will continue to decline." UP's request to waive existing safety regulations to operate trains for extended distances undermines the FRA's sharpened focus on mechanical safety following the events in East Palestine.

Given the FRA's clear concerns about UP's commitment to maintaining and inspecting its rolling stock following its reduction in mechanical employees and inspectors, coupled with the considerable defect ratio of freight cars and locomotives, we urge the FRA to deny UP's request to extend its waiver for extended-haul trains. The FRA should not reward UP for its decision to make cuts to its workforce with an extension of a waiver that is in itself not in the interest of safety and is therefore inconsistent with the federal statute governing rail safety waivers.

The upcoming one-year anniversary of the East Palestine derailment is a tragic reminder of the need for strong safety rules **and** robust enforcement of those rules by the FRA. A patchwork system of waivers that enable inconsistent procedures and operations is simply not as safe and effective as a comprehensive approach to railroad safety. In the wake of the East Palestine derailment, the FRA must scrutinize previously granted safety waivers to ensure that those waivers actually increase, not decrease, safety. This waiver reduces the standard of mechanical

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<sup>3</sup> <https://www.railwayage.com/wp-content/uploads/2023/09/FRA-Letter-to-UP.pdf>

<sup>4</sup> <https://abc6onyourside.com/news/local/norfolk-southern-wont-say-if-defect-detectors-picked-up-problems-before-crash-east-palestine-ohio-train-derailment-toxic-vinyl-chloride-ntsb-report>

<sup>5</sup> <https://www.trains.com/trn/news-reviews/news-wire/ntsb-east-palestine-hearing-focuses-on-role-of-car-inspection-wayside-detectors/>

inspections and unnecessarily increases the risk of derailments. We therefore respectfully request that the FRA deny this petition.

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