



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

OCT 12 2011

Mr. Robert M. Grimalia  
VP Safety, Security, Environment and CSO  
Union Pacific Railroad  
1400 Douglas Street, MS 1180  
Omaha, NE 68179-1180

**Re: Docket Number FRA-2006-25862**

Dear Mr. Grimalia:

This letter is in response to Union Pacific Railroad's (UP) August 15, 2011, letter requesting an extension of the waivers granted by the Federal Railroad Administration (FRA) in the letters dated October 26, 2006, and September 9, 2009, in Docket Number FRA-2006-25862.

The existing waivers provide UP limited, conditional relief from certain sections of Title 49 Code of Federal Regulations (CFR) Part 240, addressing the qualification and certification of locomotive engineers, and 49 CFR Part 218, addressing the handling of equipment, switches, and fixed derails, in connection with the implementation of a Confidential Close Call Reporting System (C3RS) pilot program involving UP's North Platte Service Unit. The pilot project is sponsored by FRA and is designed to document "close calls," (i.e., unsafe events or situations that have the potential for more serious safety-related consequences).

Specifically, UP requests an extension of the existing waivers until November 18, 2014; the current waivers expire on October 26, 2011. UP's request for an extension was published in the Federal Register on September 29, 2011, with a 30-day comment period.

On September 23, 2011, FRA's Railroad Safety Board (Board) granted the requested relief subject to the following conditions:

1. The Implementing Memorandum of Understanding (IMOU) among UP, the Brotherhood of Locomotive Engineers and Trainmen, United Transportation Union, and FRA, dated August 17, 2006, and amended on September 12, 2007,<sup>1</sup> is incorporated by reference into the conditions of this letter, except as provided in condition number 2. This waiver is limited to relief necessary to implement the terms of the amended IMOU. Any proposed material modifications to the amended IMOU must be submitted to the Board for approval prior to implementation of such modifications.

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<sup>1</sup> See document no. FRA-2006-25862-0008 in the docket.

2. The relief provided in this letter does not apply to any “close call” that meets the definition of “accountable injury or illness” or “accountable rail equipment accident/incident” as defined in 49 CFR Part 225.
3. All UP employees eligible to participate in the project must be trained in the proper reporting of “close call” incidents as defined in the amended IMOU.
4. Relief from 49 CFR Section 218.105(b) is limited to the actual switch position and individual employee responsibilities under that section. No relief is provided for the requirement to designate, in writing, the normal position of hand-operated main track switches.
5. This waiver is effective until November 18, 2014, until the C3RS pilot project is completed, or until any party to the amended IMOU cancels its participation in the project, whichever occurs first. FRA reserves the right to extend the waiver if conditions warrant and if UP has made a written request for an extension. Any request for an extension shall be filed with FRA’s Office of Safety Assurance and Compliance in Washington, DC.

FRA reserves the right to modify or rescind this waiver at any time upon receipt of information pertaining to the safety of rail operations, or in the event of noncompliance with any condition of this waiver.

In the interest of maintaining continuity of the C3RS pilot program, FRA is granting the requested relief before the end of the 30-day comment period. FRA reserves the right to modify or rescind this waiver based on any comments received.

In any future correspondence regarding this waiver, please refer to Docket Number FRA-2006-25862. If you have any questions or concerns, please contact Mr. Joseph Riley, Railroad Safety Specialist, Operating Practices Division at (202) 493-6318 or Mr. Doug Taylor, Staff Director, Operating Practices Division at (202) 493-6255.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Lauby', with a stylized flourish at the end.

Robert C. Lauby  
Deputy Associate Administrator  
for Regulatory and Legislative Operations