



SMART TRANSPORTATION DIVISION

BEFORE THE U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET NO –

FRA-2022-0082

January 16, 2023

These comments are on behalf of the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART-TD), an organization representing approximately 100,000 transportation employees with active rail members working in all operating crafts, including engineers, conductors, trainmen, switchmen and yardmasters.

This is in response to FRA's request for public comment on the potential adoption of a petition from BNSF Railway to be granted a waiver of 49 C.F.R. sections 232.205 (c) (ii) (B) and 232.207 (b) (1). SMART-TD is writing in staunch opposition of this petition and adamantly rejects the methods that BNSF reportedly employed when conducting the research behind their supporting documentation.

It is common for any number of corporations to advocate that the safety of their workforce is their number one priority. These platitudes may be even more prevalent in the railroad industry, especially when citing its historically dangerous nature. The homepage of the rail carrier being addressed in this comment proclaims that "BNSF is committed to the safe operation of every mile of our 32,500 route-mile network."

This corporate rhetoric is difficult to justify in light of this petition. In its petition to the FRA for the waiver, the carrier offers five bullet points to justify approval of its waiver. We will use the same format in an effort to bring clarity and structure to our rebuttal.

• BNSF's first point is that Distributed Power (DP) was not prevalent when current air flow limits were established.

SMART-TD concedes that point. However, though DP wasn't part of the equation when these standards were established, air brake systems, in general, were. The location of locomotives in the freight train's consist and the source of air pressure does not change the science behind the use of air to stop trains. Brake pads and rotors do not ask for the location of the air flow source in order to dictate whether a proper reduction in air pressure is applied to stop the motion of a train wheel because it is a binary system. There is either enough air pressure to keep the airbrake system released or enough air is reduced from the system to provide the necessary torque to operate the mechanisms that provide pressure to the brake calipers to make attempts to stop the wheels from spinning. BNSF would like us to lose focus of this basic premise. In order for our membership to stop a train in an appropriate and safe manner, the brakes need to apply and release in direct correspondence with the control stand. This principle has not changed. The introduction of DP to the industry's landscape does not change the fact that high air flow may be an indication that the brake system of a train is experiencing leakage in any number of ways, and is in a state where it cannot be trusted to work as intended.

• The second BNSF point of consideration is that the effect of DP on brake propagation in a train was lacking scientific or operational data.

We are under the assumption that it is intended to mean that this lack of understanding was prior to the establishment of the current 90 CFM. limit. This might be a valid point if this lack of data had been remedied in the years since. It has not, and therefore this point is moot.

• The third bullet point offered by BNSF is very similar to the second, except they imply that the lack of scientific evidence is in the past and has been resolved by its own research.

It is our assumption that putting the problem in the past tense is a reference to the carrier's apparent belief that an incomplete, FRA sponsored, study conducted June 28th in Staples, Minn., is, in fact, definitive. As FRA is fully aware, the test being referenced by BNSF is just one phase of a multi-year four-phase study. To this point, FRA is still receiving comments from the involved parties to consider in its analyzation for this particular phase of the test's results. Again, as FRA knows, the final phase of the test will not be completed until sometime late in the summer of 2023. Upon its completion, only then will an accurate and robust assessment be able to be made.

BNSF's assertion is not only premature, but also a manipulation of the test's intentions to determine a safe level of operations within the railroad industry. BNSF should be thanked for its willingness to host the test, we agree, but it should not be granted an exception based on its own observations of another party's test. Given these points, any reference to this test or any data gathered by the carrier simply because it was the host is ill-considered and not justification worthy of serving as scientific evidence. FRA has a responsibility to perform its due diligence throughout the process of this test, and to consider granting a waiver so prematurely would be an abdication of that responsibility.

• BNSF's 4th bullet point is perhaps the one that is most difficult for SMART-TD to tolerate. This bullet point is the proverbial wolf in sheep's clothing. BNSF uses employee safety to camouflage this blatant attempt to circumvent current industry air brake standards.

It is BNSF's contention that the variance the carrier seeks to allow DP trains to run with up to 120 CFM of air flow is at least in part to prevent the slip/trip/fall hazards associated with their employees/our members walking their train consists. This would be humorous if wasn't so insulting to our intelligence and that of the FRA. It is true that slip/trip/fall risks are inherent with the walking of trains; however, not having the ability to consistently control the speed and stopping power of a freight train is a safety concern on a much-larger scale — potentially imperiling the people aboard the train, other trains on the rails, the people operating those other trains and to the public. In short, the point BNSF is offering up is that in order to avoid conductors and carmen twisting their ankles, it's fine to move the goalpost of acceptable braking capability, all allegedly in the name of safety, of course. We would much rather a conductor walk his/her train and change a handful of air gaskets in the brake line to bring down air flow and risk a potential soft-tissue injury than to see that same conductor and an engineer killed after their train slid through a stop signal into an oncoming movement. Just last month, FRA itself issued a safety alert on air brake failure, so the scenario is not far-fetched or hyperbolic by any stretch of the imagination. While labor and carriers often differ in our view of safety, it is our hope and firm belief the FRA would side with our way of thinking on this matter when considering the consequences.

• Finally, the 5th bullet point offered in the request for variance is that DP has brought about safer train handling in cold-weather conditions.

This point may very well be valid; however, it has brought these improvements while adhering to the current norm of 90 lbs. of CFM. If the overall effect of the implementation of DP has benefited train handling, it is our stance that we should take that as a win and not look to fritter away the gains to safety by trading that additional safety for expediency and subsequent carrier profits. Additionally on this point BNSF makes, there is an issue that we take with this premise. That is, if their effort to ratchet up the acceptable amount of CFM to 133% of its previous limit is in any way an effect of “safer train handling in cold weather operations” than we would like to know why they would propose this change based on a single test run in Staples, Minn., on June 28th. Per the National Weather Service’s website, weather.gov, the temperature in that part of Minnesota on the reported day of their testing was 87°F. With this in mind, we would like to see the data-driven science they speak to in bullet points number 2, and 3, that they can supply to back up their bullet point number 5 regarding cold-weather conditions.

Additionally, those of us who operate trains on a daily basis are painfully aware that temperature is not the only factor in the effectiveness of a locomotive’s air compressor. In a real-world environment, condensation and atmospheric moisture play a large, if not equal, role in the tightness of a brake line as the ambient temperature does. National Weather Service website data indicates there was zero precipitation on the 28th of June in the greater Twin Cities area. In fact, there was zero precipitation in the area for weeks prior to and days after the test was said to have been conducted. We bring to the attention of FRA that the data collected during testing that day, even if done thoroughly and professionally and void of pre-drawn conclusions, could not have accounted for the numerous ambient factors that would be needed to be weighed before such a drastic policy change.

In conclusion, permitting 30 lbs. of additional leeway in airflow as requested by BNSF would mask a tremendous number of problems in the current air brake systems. The fact is that with 120lbs of CFM, the ability of brakes to bite down with the appropriate pressure will be compromised. Engineers will have to accommodate for this loss of brake capacity by applying 10lbs of air in scenarios that may have been handled with a minimum service application of automatic brakes if the system was properly charged. And on the extreme end of the spectrum, there will be less overall braking capability. Inflating the acceptable amount of air flow means that we are accepting an additional amount of leakage in the brake line. On its face, this is a bad idea. If carriers are enabled by the FRA to put crews on America’s mainlines with 120lbs. of CFM, there will be ramifications. At that level of leakage, brake system overcharge issues will go undetected. Trains will be sent out through the country’s downtowns strung along BNSF’s 32,500 miles of track with stuck brakes, ready to create problems and separations the first time the engineer is in a position where he/she needs to apply automatic braking.

On Thursday, December 29th, 2022, The FRA released FRA Safety Advisory 2022-02. In this advisory, your organization describes an incident in which a train crew had to take emergency actions to prevent a stopped train from rolling through a red signal it had been stopped at for 3 hours. Your description of the event cites leakage in the brake system as a cause of the failure of the automatic brakes. SMART-TD would like to point out that leakage in the brake line can cause a variety of problems in railroading, and the intent of monitoring a train’s flow is to minimize these problems. In line with this thought process, relaxing the guidelines for acceptable flow will absolutely lead to additional safety issues such as the one described in Safety Advisory 2022-02.

We at SMART-TD argue that granting this variance would be a short-sighted decision on the part of FRA and also set a precedent that would threaten industry-wide safety standards. Granting BNSF this petition will mean the other Class I carriers looking to cut corners will soon follow its lead. It is in the interest of the men and women we represent and our desire for the continued safe operation of our nation's railways to hold the line. FRA should not allow the interest of corporate profit margins to supersede the safety of our members and thusly should reject this petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Hynes", with a long horizontal flourish extending to the left.

Greg Hynes