4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2018-0049]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 29, 2018, BNSF Railway (BNSF) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR sections 232.213, 232.15, and 232.103(f). In addition, BNSF requests an exemption from the requirements of Title 49, United States Code (U.S.C.), section 20303, which prohibits the movement of a rail vehicle with defective or insecure equipment beyond the nearest available place at which the repairs can be made. See 49 U.S.C. § 20306. FRA assigned the petition Docket Number FRA-2018-0049.

Specifically, BNSF petitions FRA to conduct a pilot program on a segment of their system to "demonstrate that the use of wheel temperature detectors (WTD) to prove brake health effectiveness (BHE) will improve safety, reduce risks to employees, and provide cost savings to the industry." Currently, the effectiveness of railroad brake systems is verified by Class I initial terminal and Class IA intermediate brake tests. BNSF proposes to supplement these visual inspections with a wayside WTD, a device designed to directly measure the rise in wheel temperatures because of a brake application. BNSF asserts that such a measure of performance is objective, quantifiable,

and independent of conditions that can impair a visual inspection; such as weather, lighting, human fatigue, or human error.

BNSF states that a monitoring system using WTD data as an alternative to the intermediate brake inspections is expected to substantially improve the reliability of brake inspections, reduce on-line setouts, and increase faulty part replacement, to improve the safety performance of brake systems overall. BNSF plans to use pyrometer sensors, a technology also used for hot wheel detection, to measure the surface temperature of each wheel passing the detector. Using data analysis algorithms, these temperature measurements determine whether brakes on each axle and brake valve of a car is applying when they should, and not applying when they should not. A comparison to a baseline non-braking measurement against the brake site measurement would be used to identify wheels with abnormal brake readings for subsequent inspection, troubleshooting, and repair. BNSF explains that its Safety Assurance Plan (SAP) describes how its WTD system provides for each safety element required by the Class I and Intermediate Brake Tests, outlines the level of brake system performance that is expected from using the WTD and algorithms, and describes how data will be collected to demonstrate that this level of safety has been achieved.

BNSF proposes to conduct a pilot program on extended haul, revenue-service unit intermodal trains, operating between facilities in California and Chicago, IL. These intermodal trains operate intact with up to 1,702 miles between brake tests. Each test train will receive a Class I brake test and predeparture test at the intermodal facility in California or Chicago. In-route trains will pass WTD monitors located both east and west of Belen, NM, to record braking performance through power braking events.

During this proposed pilot program, a minimum of 95 percent of brake valves in a train will be required to have "qualified" brakes between inspection points, meaning a brake valve produces a wheel temperature statistically different from the baseline test before braking is initiated. If there is any doubt about WTD system performance, reliability, and data quality; or fewer than 95 percent of the brake valves in the consist that have qualified brakes as verified by the automated WTD system, a manual intermediate inspection will be performed at the designated inspection point. Class I inspections and other operational and regulatory inspections will continue to be performed, and any defects discovered by the Class I brake test will be repaired before the car is approved to leave the original terminal.

Additionally, BNSF explains that it uses dragging equipment detectors, hot wheel detectors, and hot box detectors to monitor equipment that may have brakes not properly releasing, handbrakes left on, or incorrect retainer valve positions. BNSF states that preliminary tests conducted with the WTD system indicate that cars with ineffective brakes are identified at a significantly higher rate than intermediate brake tests. During the pilot test period, specific car repair data resulting from abnormal brake detections will be analyzed to establish the effectiveness of the WTD compared to manual inspections.

FRA may grant an exemption from the requirements of 49 U.S.C. 20303 only on the basis of (1) evidence developed at a hearing; or (2) an agreement between national railroad labor representatives and the developer of the equipment or technology at issue. 49 U.S.C. 20306. In support of its request for an exemption from 49 U.S.C. 20303, BNSF notes that the public hearing FRA previously held to address a similar request for exemption from the Union Pacific Railroad (Docket Number FRA-2016-0018) addresses

substantially the same issues as its current request. Thus, BNSF asserts a separate public hearing on its current request is unnecessary. FRA agrees and in considering BNSF's request in this docket, FRA intends to rely on the findings of the hearing conducted in Docket Number FRA-2016-0018.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: http://www.regulations.gov. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, Room W12-140, Washington, DC

20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 30 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at https://www.transportation.gov/privacy. See also https://www.regulations.gov/privacyNotice for the privacy notice of regulations.gov.

Issued in Washington, DC.

Robert C. Lauby,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

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