

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 March 18, 2021, BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) for an expansion of a current waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices. FRA assigned the petition Docket Number FRA–2018–0049.

The existing waiver provides BNSF certain relief from 49 CFR 232.15, *Movement of defective equipment*; 49 CFR 232.103(f), *General requirements for all train brake systems*; and 49 CFR 232.213, *Extended haul trains*; and a statutory exemption from the requirements of title 49, United States Code section 20303. BNSF seeks to expand the scope of the waiver to include coal trains operating over the Pikes Peak Subdivision in Colorado and across the Sand Hills Subdivision in Nebraska.

On April 12, 2019, FRA granted BNSF a test waiver to conduct a pilot program on a segment of its system to “demonstrate that the use of wheel temperature detectors to prove brake health effectiveness (BHE) will improve safety, reduce risks to employees, and provide cost savings to the industry.”

In its current petition, BNSF states the test waiver committee for BHE has been actively reviewing the data generated since August 2018, and during that time, BNSF has tested more than 5,500 trains. In building on the test waiver success of the Southern Transcon intermodal trains and the Northern Transcon grain trains, BNSF requests to

expand its BHE initiative on BNSF’s coal network in a two-phrase program: (1) The addition of the Pike’s Peak route with detectors at Monument and Castle Rock, and (2) the addition of the Sand Hills route with detectors at testing sites.

BNSF states that coal trains in this program would be subject to the same requirements for training completion of all related work groups, and the detectors would not be activated until training records are provided to the test waiver committee. BNSF is prepared to begin training on BHE processes in Denver, Colorado; Alliance, Nebraska; Temple, Texas; and Amarillo, Texas, in March and May 2021.

BNSF asserts the expansion would increase the braking improvements on the equipment, increase the number of waiver trains, and enable more locations to complete the automatic single car tests. BNSF explains it has installed, tested, and validated the required detectors at the Pike’s Peak site. These detectors were installed to continue the BHE testing in a cold weather climate and location that allows for the testing of southbound loaded coal trains. BNSF proposes that the processes and parameters would follow all conditions of the Southern Transcon intermodal BHE Program, but differ in that the trains “cycle” and stay intact in unit train operations, similar to the Northern Transcon grain trains.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

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:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by May 20, 2021 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 www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

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