



U.S. Department
of Transportation

**Federal Railroad
Administration**

Date: January 9, 2003

Reply to Att. of: MP&E 03-01

Subject: Early Application of New Power Brake Regulations ' 232.1(c) - Guidance

ORIGINAL SIGNED BY

From: Edward W. Pritchard
Director, Office of Safety Assurance and Compliance

To: Regional Administrators, Deputy Regional Administrators,
Motive Power & Equipment Specialists and Inspectors

As provided for in 49 CFR 232.1(c), the Burlington Northern Santa Fe Railway Company (BNSF) recently notified FRA of its intention to begin early application of the new *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment* contained at Title 49, Code of Federal Regulations (CFR), Part 232 of the regulation, effective December 29, 2002. BNSF is the first to apply for early application and where referenced, herein, applies to all future applicants.

General

Although the regulation does not require formal approval from FRA prior to a railroad initiating early implementation, the regulation and preamble make it clear that any railroad that notifies FRA of its intent to begin operations under the new regulations is willing and able to comply with all of the requirements contained in the regulation. See 49 CFR 232.1(c) and 66 FR 4145. Thus, once a railroad begins early implementation of the regulation, the railroad becomes potentially liable for civil penalties if it fails to comply with any of the provisions contained in the new regulation.

However, FRA realizes that there are several provisions of the new regulation which may create obstacles to early implementation due to the fact that compliance with all of the requirements is premised on the entire regulated industry being in conformity with certain provisions. These include:

- ▶ ' 232.103(g) - requires allowable piston travel limits to be displayed on cars (except those with 12-inch stroke brake cylinders) either with a decal, stencil, sticker, or on the badge plate.
- ▶ ' 232.219(c) - requires a Helper Link device or similar technology be designed with a reset capability in the cab of the locomotive available to the locomotive engineer.

- ▶ ' 232.109(a) - requires the railroad to notify a locomotive engineer of the operational status of dynamic brakes on all locomotive units in the consist at the initial terminal and other locations where the locomotive engineer first begins operation of the train.
- ▶ ' 232.205(d) - requires that a record of the Class I Brake test be maintained in cab of the locomotive from the initial terminal to destination.

Universal Provisions

With regard to these universal provisions, FRA expects any railroad requesting early application of the regulation to comply with all the provisions of the regulation that are within that railroad's control. Thus, if a provision of the new regulation requires action on behalf of the entire industry in order for any one railroad to be in total compliance, then a reasonable interpretation of that requirement is that the railroad seeking early application must comply to the extent it can. To interpret the regulation differently would essentially render the early application provision meaningless, because no individual railroad can completely meet the above noted provisions without all other connecting railroads coming into earlier compliance with the regulation. Therefore, with regard to the above noted provisions, BNSF shall ensure:

- All freight cars owned by the BNSF and/or that have BNSF markings are properly stenciled or labeled with the piston travel information as required by ' 232.103(g); Furthermore, FRA expects BNSF to make a good faith effort to have all private car owners that operate exclusively on BNSF property initiate an accelerated program to comply with the piston travel information requirements.
- FRA understands that the technology related to the Helper Link reset requirement is still under development. The intent of the regulation and FRA's interpretation of this helper link design requirement is that the reset devices are to be developed and installed by April 1, 2004. Because this provision contains a specific equipment design requirement which is linked to the April 1, 2004, applicability date for the regulation (as no date is specified in the provision itself,) FRA believes that this is the most appropriate and reasonable interpretation of the provision. Consequently, a railroad is not required to have the required reset capability installed in its equipment until April 1, 2004.
- All information available to BNSF, relating to the operational status of the dynamic brakes on all the locomotives in the consist, at a train's initial terminal and other locations where a locomotive engineer first begins operation of a train, shall be properly provided to the locomotive engineer as specified in ' 232.109(a).
- The locomotive engineer shall be notified that the Class I brake test was satisfactorily performed and a record of the required information must be retained in the cab of the controlling locomotive, as required by ' 232.205(d), on any train originated by the BNSF that is required to receive the Class I brake test.

With respect to the later two items, BNSF is expected to comply during the interim period using information derived from its own operations and to the extent status information is available from a delivering carrier, that information shall also be provided to the crew. With respect to interchange with any other railroad that has elected early implementation, both railroads are expected to be in full compliance with information requirements. However, run-through *extended haul* service is authorized only when all railroads involved with the move have initiated early implementation of the new regulation.

Training

To clarify the training requirements, training is only required for inspections and tests the individual is responsible for performing. If a train crew is not required to perform any air brake inspections or tests, there is no requirement under Part 232 that the individual be trained. Likewise, a carman that works only in a shop environment, would not have to receive training for train air brake tests. FRA does allow for railroads to grandfather existing employees, but there is still the requirement that the railroad maintain a copy of the certification in each employee=s training records, and the certification must contain a brief description of and approximate dates of when the previous training was provided.

Also, each employee would have to receive training and testing on the specific Federal regulatory requirements of the new rule related to the performance of the tasks which the employee is responsible for performing. This would have to be included in the employee=s training records. **Note:** The training records have to indicate the tasks which the employee is deemed qualified to perform. Please refer to '232.203 for a complete description of the training requirements and a list of the information that is required to be maintained for each individual employee. This information can be maintained either electronically or in writing, but must be provided to FRA upon request.

Yard Air Inspection Requirements

With regards to the yard air inspections and records requirements found at ' 232.107, the railroad should have a written plan to monitor all yard air sources for proper operation. However, the regulation requires an inspection at least two times per calendar year, no less than five months apart. Since this was not a requirement until the provision became effective, BNSF has up to seven months from the December 29, 2002 effective date to perform the first inspection.

Recordkeeping and Notification

Attached is the latest list of extended haul trains that BNSF plans to operate. There should be inspections made at both ends of the extended haul segment of the trip to monitor the operation for full compliance. Extended haul trains cannot leave the point where the outbound extended haul inspection is performed with any freight car (Part 215), or air brake (Part 232) defect. Be advised that there is strict record-keeping requirements for any condition not in compliance at anytime during the movement of these trains. Please advise James Wilson, the below listed contact, via e-mail of any non-compliance condition found at the extended haul inspection locations. The extended haul provision can be found at '232.213.

MP&E and OP inspectors need to be vigilant about the new securement requirements for trains and locomotives as specified in ' 232.103(n).

The new regulations should be used and cited in any inspection activity related to Part 232 involving the BNSF. Please ensure that this information is immediately distributed to the appropriate personnel. If there are any questions or concerns, please contact Mr. James Wilson, MP&E Division Specialist, at 202-493-6259 or via e-mail.

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