

'Trains are now capable of continuous, autonomous data collection that can send streams of information to human operators.'



TRANSPORTATION & INFRASTRUCTURE

A rail company thinks federal regulators are holding up new safety measures

BNSF Railway took up the rare occasion to sue the Federal Railroad Administration

By Jeremy Lott

It's relatively rare for a large company to sue its regulator, but BNSF Railway has done just that.

In April, BNSF filed a protest of an administrative ruling by the Federal Railroad Administration seeking "relief on the grounds that FRA's action is arbitrary, capricious, an abuse of discretion, and otherwise contrary to law, all in violation of the Administrative Procedure Act."

BNSF asked that the court "hold unlawful, vacate, and set aside the Order; direct FRA to grant the waiver; and grant such additional relief as may be necessary and appropriate."

The waiver in question has to do

with track safety measures. The administrative rule, made in 1971, specifies mandatory human track-walking as the only way to spot track weaknesses and put in for necessary repairs to head off derailments. The railroads have argued that new technology offers a better way of doing track inspections.

Until relatively recently, the FRA seemed to agree with them. It green-lighted test programs and waivers for several railroads to use Automated Track Inspection technology, in some cases instead of trackwalkers. The Alliance for Innovation and Infrastructure explained how that works on its website.

"Trains are now capable of continuous, autonomous data collection that can send streams of information to human operators and artificial intelligence for analysis to improve safety and efficiency," wrote Benjamin Dierker, director of public policy for the Alliance for Innovation and Infrastructure. "Through autonomous track inspections, equipment can now be mounted directly onto locomotives or railcars so that every mile the train travels serves as its own inspection, data collection run, and digital pin drop for maintenance follow-ups."

What this gear allows for is track inspection "in real-time, measuring and detecting track spacing and micro-deficiencies that human inspectors may not even be able to see," Dierker wrote. It allows inspection to "happen in real-world conditions of a fully-loaded freight train moving along the track, rather than a human walking the track or a retrofitted inspection truck mounted on the track."

One of the many reasons railroads are so taken with ATI technology is that it also allows for "inspection while the ordinary course of business is still conducted, not sacrificing time and resources to delay trains or block sections of track for alternative inspection vehicles," he explained.

To many, that may sound like an improvement over track-walking, though perhaps not to the track inspectors whose jobs it threatens to make redundant.

Last year, the FRA announced that it would allow some of those test programs to expire, quite against industry expectations. Congressional pressure convinced the agency to extend those programs for a limited time, but it refused to grant a waiver for BNSF to expand its use of ATI technology. Thus the lawsuit.

"After consideration of BNSF's June 15, 2021, waiver expansion request, the public comments filed in the docket, and BNSF's follow-up letters of January 14, 2022, and March 11, 2022, FRA finds that given the ongoing RSAC task related to ATI, expanding the existing