



[Submitted via email]

February 25, 2026

Mr. David Fink  
Administrator  
Federal Railroad Administration  
U.S. Department of Transportation  
1200 New Jersey Ave SE  
Washington, DC 20003

Re: **Brakes III, Docket No. FRA-2019-0072**

Dear Administrator Fink:

On behalf of the undersigned rail labor organizations representing the frontline workforce responsible for inspecting, maintaining, and safely operating the nation’s freight rail system, we write to urge the Federal Railroad Administration (FRA) not to move forward with finalizing the proposed rule in Docket No. FRA-2019-0072, *Brake System Safety Standards: Operations Using an Electronic Air Brake Slip System; Amendments*, commonly referred to as “Brakes III.”

Our members are the car inspectors, mechanical employees, train crews, dispatchers, and other safety-sensitive workers who ensure that every freight train moving across this country is safe for the public, the communities through which it travels, and the employees who operate it. We share FRA’s statutory mission to promote rail safety and reduce accidents and incidents. It is from this shared commitment to safety that we raise serious concerns about this proposal.

## **The Rule's Core Change Would Reduce Critical Safety Oversight**

The proposed rule would extend required freight car inspection intervals from every 1,500 miles to every 2,500 miles for railroads utilizing an electronic airbrake slip. While technology can and should support safety, it must not be used as a substitute for physical inspection performed by trained craft employees.

Allowing extended mileage between mechanical and/or brake inspections simply because a railroad has adopted an electronic data collection tool belies common sense. It is tantamount to saying, "Because new cars have computers, you don't need to change the oil for an extra 5,000 miles." The presence of an upgraded tracking or documentation system does not alter the underlying mechanical realities of wear, fatigue, and component reliability.

Recording an inspection electronically is simply a more efficient way of documenting that an inspection occurred—and identifying when and by whom it was performed. It does not change the science behind brake system degradation. It does not reduce the physical stresses imposed on brake components over thousands of miles. And it does not eliminate the need for timely, hands-on inspections by qualified mechanical employees.

Inspection intervals are grounded in engineering principles, equipment reliability data, and the practical experience of those who maintain freight cars in real-world operating conditions. Whether a record is kept on paper or via an electronic slip has no bearing on whether brake shoes, rigging, valves, hoses, or other components require inspection after a given number of miles due to cumulative wear.

An electronic record confirming certain test parameters at a single point in time is not equivalent to a physical inspection capable of detecting emerging defects, component fatigue, misalignment, contamination, or other unsafe conditions that may not trigger an electronic indication. Extending inspection intervals based solely on the adoption of an electronic documentation tool conflates administrative efficiency with mechanical safety. One simply has nothing to do with the other.

At a time when freight trains are longer, heavier, and increasingly operated with reduced staffing, adding additional mileage between required inspections moves in the wrong direction. It increases risk exposure across thousands of route miles and through countless communities. Safety regulations should provide *additional layers* of protection—not trade them away in exchange for operational flexibility.

## **The Rulemaking Record Is Stale and Does Not Reflect Today's Safety Environment**

It has now been approximately five years since FRA last accepted public comment on this proposal. The freight rail industry, operating practices, and public expectations regarding safety have evolved substantially since that time.

Since 2019, the industry has experienced significant operational changes, including further train length increases and workforce reductions.<sup>1</sup> Most notably, the tragic derailment in East Palestine, Ohio in 2023 fundamentally altered the national conversation around freight rail safety. The incident prompted bipartisan scrutiny from Congress, heightened public concern, and renewed attention to inspection practices, equipment condition, and regulatory oversight.

Finalizing a rule that reduces inspection frequency—without reopening the record to consider post-2019 developments and lessons learned—would disregard the changed safety landscape. The Administrative Procedure Act (APA) contemplates a meaningful opportunity for public participation based on a complete and current record.<sup>2</sup> A five-year-old comment file does not reflect the concerns of communities, first responders, workers, and lawmakers who are now acutely focused on freight rail safety.

At minimum, if FRA believes further action is warranted, it should withdraw the current proposal and reissue a new notice of proposed rulemaking that incorporates updated data, recent accident history, current train operating practices, and the views of affected stakeholders.

## **Public and Congressional Confidence in Rail Safety Must Be Strengthened—Not Undermined**

In the wake of recent high-profile derailments, Members of Congress from both parties have called for stronger safety standards, enhanced inspection requirements, and more robust federal oversight. The public expects regulators to err on the side of caution when addressing safety-critical systems such as air brakes and other critical mechanical components.

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<sup>1</sup> Transportation Research Board. (2024). *Long Freight Trains: Ensuring Safe Operations, Mitigating Adverse Impacts* (Transportation Research Board Special Report No. 353). National Academies of Sciences, Engineering, and Medicine. DOI: 10.17226/27807. This consensus study report examines safety challenges associated with longer freight trains, including operational and brake system considerations.

<sup>2</sup> The Administrative Procedure Act requires agencies engaged in notice-and-comment rulemaking to provide interested persons a meaningful opportunity to participate and to consider the “relevant matter presented” before issuing a final rule. 5 U.S.C. § 553(c). Courts have interpreted this requirement to mean that agencies must disclose the technical and factual bases underlying a proposal so that the public may comment intelligently and effectively, and that the final rule must be supported by a reasoned analysis grounded in the administrative record before the agency. See *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 35–36 (D.C. Cir. 1977); *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Where material circumstances have changed or the underlying record has become stale, courts have recognized that reliance on an outdated record may undermine the adequacy of notice and the reasonableness of the agency’s action under 5 U.S.C. §§ 553, 706(2)(A). *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 31-32. This is because courts applying this standard require an agency to “examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *Id.* at 43. In other words, if the agency relies on stale or outdated information, or fails to consider significant new evidence or changed circumstances, its action may be found arbitrary and capricious. See also *Am. Stewards of Liberty v. Dep’t of Interior*, 370 F. Supp. 3d 711, (W.D. Tex. 2019) (applying *State Farm* analysis to case where agency’s failure to rely on best available data was found to be arbitrary and capricious).

Moving forward with a rule that extends inspection intervals risks sending the opposite signal—that regulatory standards can be relaxed even amid heightened concern about freight rail operations. Regardless of intent, such action could undermine public confidence in FRA’s commitment to safety.

Rail labor organizations stand ready to work constructively with FRA, rail carriers, and other stakeholders to modernize inspection processes in ways that demonstrably enhance safety. Technological tools, including electronic documentation systems, can be valuable supplements to—not replacements for—thorough mechanical inspections performed at appropriate intervals. Any regulatory change in this area should be supported by clear, current, and transparent evidence that it will maintain or improve safety outcomes.

## **A Better Path Forward**

Given the safety-critical nature of brake system inspections, the age of the rulemaking record, and the significantly changed public safety environment in the five years since, we respectfully request that FRA:

1. Refrain from finalizing Docket No. FRA-2019-0072 in its current form;
2. Withdraw the proposal or, at minimum, restart the NPRM process with an extended comment period to solicit updated input from stakeholders - especially in light of growing congressional and public interest; and
3. Engage directly with rail labor organizations and other frontline stakeholders to evaluate whether any modification to inspection intervals can or could be justified without increasing risk.

Our members are uniquely positioned to provide practical, experience-based insight into how inspection intervals function in real-world operating environments. We would welcome the opportunity to meet with FRA leadership to discuss these concerns in detail and to identify approaches that strengthen—rather than dilute—rail safety protections.

FRA’s mission is to promote safe, reliable rail transportation. In the current climate of heightened public concern and congressional oversight, the Agency has an opportunity to reaffirm that mission by ensuring that inspection standards remain robust, based on current evidence, and aligned with the realities of modern freight operations.

We urge you to decline to move forward with this rulemaking and instead chart a new course that reinforces the safety of the nation’s rail system and the confidence of the communities it serves.

Respectfully submitted,

Don Grissom  
General President  
Brotherhood of Railway Carmen Division  
(BRC-TCU)

Mike Baldwin  
President  
Brotherhood of Railroad Signalmen (BRS)

Jeremy R. Ferguson  
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*Submitted via email on Feb. 25<sup>th</sup>, 2026*