



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket Number FRA-2013-0063]**

### **Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated June 6, 2013, the Association of American Railroads (AAR), on behalf of itself and its member railroads, has petitioned the Federal Railroad Administration (FRA) for a 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-2013-0063.

Specifically, AAR seeks a waiver of compliance from Part 232, Appendix B, Part 232 Prior to May 31, 2001 as Clarified Effective April 10, 2002, 232.17(b)(2). This section states that brake equipment on passenger cars must be cleaned, repaired, lubricated, and tested as often as necessary to maintain it in a safe and suitable condition for service but not less frequently than as required in Standard S-045 in the Manual of Standards and Recommended Practices (MSRP) of the AAR. AAR petitioned FRA for a 5-year waiver so that AAR Standard S-4045 may be used in lieu of the obsolete Standard S-045 for the frequency requirements referenced in 49 CFR Part 232, Appendix B.

AAR's Braking Systems Committee recently revised S-4045's Section E,

Passenger Equipment Maintenance Requirements of the AAR MSRP. The revisions include a revised definition for a passenger equipment car as “[R]ail rolling equipment that is used only for excursions, recreational, or private transportation purposes (such as a vehicle designed to carry railroad personnel). It does not apply to a passenger car intended for use by members of the general public as defined in US DOT-FRA Title 49, Code of Federal Regulations, Part 238.” This definition serves to address private passenger cars, particularly those operated by freight railroads that may be handled in either freight or passenger trains. Additionally, the revised standard aligns the requirements for air brake periodic attention with 49 CFR 238.309, *Periodic brake equipment maintenance*, to eliminate confusion for air brake dates on equipment that may be subject to both Part 238 and non-Part 238 service, i.e., passenger equipment that may be handled in either freight or passenger trains. Passenger equipment has operated in this dual service since 1999 with no significant difference in the numbers of defects found in D-22 and 26-C valve components between the service modes. Finally, S-4045 includes a clarification for the use of freight valves on passenger equipment by addressing the use of Rule 3 of the Field Manual of the AAR Interchange Rules as the proper reference for the maintenance of freight valves used on passenger equipment. The change recommended in this waiver request maintains existing safety levels and lessens compliance confusion by allowing uniform periodic inspection dates for railroad and privately owned passenger equipment, whether operating in a freight train, private train, or a Part 238 passenger train. It also maintains safety while reducing unnecessary costs.

A copy of the petition, as well as any written communications concerning the

petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 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 party desires an opportunity for oral comment, 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, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to 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.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby

Deputy Associate Administrator for Regulatory and  
Legislative Operations

[FR Doc. 2013-18501 Filed 07/31/2013 at 8:45 am; Publication  
Date: 08/01/2013]