



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

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

### **[Docket Number FRA-2009-0124]**

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a document dated September 22, 2015, the Peninsula Corridor Joint Powers Board (JPB) has petitioned the Federal Railroad Administration (FRA) for a modification to its existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238. FRA assigned the petition Docket Number FRA-2009-0124.

JBP, located in San Carlos, CA, seeks an amendment to its permanent waiver of compliance from 49 CFR 238.203, *Static end strength*, 238.205, *Anti-climbing mechanism*, and 238.207, *Link between coupling mechanism and car body*. JPB is considering purchasing non-FRA-compliant electric multiple unit (EMU) vehicles, constructed to European safety standards, for its Caltrain commuter rail service between San Francisco and Gilroy, CA. JPB seeks to amend two of the nine conditions specified in FRA's waiver decision letter dated May 27, 2010.

Specifically, JPB requests that Condition 1 (that EMUs that are the subject of this

waiver meet or exceed the crashworthiness performance levels identified and presented in the petition) be modified to align with proposed rule text for alternatively compliant Tier I equipment developed through the Railroad Safety Advisory Committee and its Engineering Task Force. Secondly, JPB requests removal of Condition 7 (that JPB submit a comprehensive temporal separation plan to FRA for approval before the EMUs are operated).

JPB states that the proposed rule text does not require temporal separation because trains built to these new rules are considered as safe or safer in collisions than trains built to current Federal standards. In addition, JPB states that it is currently implementing Positive Train Control and new EMUs will be compatible with the system, thereby reducing the risk of an impact between freight and passenger trains.

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 (DOT) Docket Operations Facility, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 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 (e.g., Waiver Petition Docket Number FRA-2004-20000) 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, SE., W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 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.). In accordance with 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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy). See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC, on October 15, 2015.

Ron Hynes,

Director, Office of Technical Oversight.

[FR Doc. 2015-26592 Filed: 10/19/2015 08:45 am; Publication Date: 10/20/2015]