



**4910-06-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket Number FRA-2016-0018]**

### **Petition for Waiver of Compliance and Statutory Exemption**

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document received February 5, 2016, 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-2016-0018.

In its petition, AAR seeks a waiver of compliance from 49 CFR 232.213—Extended haul trains, 49 CFR 232.15—Movement of defective equipment, and 49 CFR 232.103(f)—General requirements for all train brake systems. The current rules state that extended haul trains are permitted to move a train up to, but not exceeding, 1,500 miles between brake tests and inspections [49 CFR 232.213(a)]. In addition, current rules

require that equipment with defective or insecure power brakes only be moved from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made (49 CFR 232.15 and 49 U.S.C. 20303), and each car in a train must have the air brakes in effective operating conditions unless the car is being moved for repairs in accordance with 49 CFR 232.15 [49 CFR 232.103(f)]. AAR presently petitions FRA for a 5-year waiver from these requirements to permit a limited pilot program conducted on a segment of the Union Pacific Railroad (UP) system to demonstrate that the use of wheel temperature detectors (WTD) to determine brake effectiveness will improve safety and eliminate unnecessary costs to the industry. AAR previously submitted a waiver petition in this matter on July 19, 2013. That waiver petition was denied by FRA in a letter dated June 20, 2014 (see Docket Number FRA-2013-0080). AAR has revised that waiver petition and accompanying Safety Assurance Plan (SAP) in accordance with further technical considerations and an evaluation of the similar exemption currently in effect in Canada.

Through a limited pilot effort, AAR intends to demonstrate the effectiveness of using wayside WTD data to ensure safe braking performance. The focus of this pilot will be revenue service unit coal trains running on the UP system between Wyoming's Powder River Basin and an unloading facility in White Bluff, AR, a round trip of approximately 2,600 miles. The WTD that monitors the system is located at Sheep Creek, WY. Under current UP operating practices, the coal trains running in this service are classified as extended haul trains and operate intact up to 1,500 miles between brake tests required under 49 CFR part 232. The waiver requested would extend the distance between required tests up to an additional potential 1,100 miles, bypassing approximately

one visual inspection. Each test train will receive a Class 1 brake test in accordance with 49 CFR 232.205 and a predeparture inspection in accordance with 49 CFR 215.13 at North Platte, NE. The trains will then leave North Platte and travel to a coal loading facility in the Powder River Basin. The train cars will be loaded with coal and then return to North Platte, passing the WTD monitors at Sheep Creek for recording of braking performance, continuing through North Platte through Van Buren, AR, and then to an unloading facility in White Bluff. The train cars will be unloaded in White Bluff, and then the train will return to the terminus at North Platte via Van Buren.

In its petition, AAR states preliminary tests conducted with the WTD system indicate that the system identifies cars with ineffective brakes at a significantly higher rate (about four times more) than Intermediate Brake Tests. This is because the WTD system detects cars with ineffective brakes, even though they might still meet the criteria of a Class 1 or Intermediate Brake Test. Identification of such cars by the WTD system will result in those cars being repaired earlier, with the eventual result that a greater percentage of cars in any train would have effective brakes. AAR expects this will result in improved train safety.

Finally, AAR also requests an exemption from the statutory requirements at 49 U.S.C. 20303, which mandate that a rail vehicle with defective or insecure equipment may be moved to make repairs only to the nearest available place at which the repairs can be made. In requesting this exemption, AAR invokes the process at 49 U.S.C. 20306, which states that the U.S. Secretary of Transportation may provide such an exemption when existing requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under

existing law. As delineated in the SAP, the WTD system is a superior method to manage brake health as compared with the current process found in the Federal brake system safety standards. AAR requests a hearing during which evidence can be developed per 49 U.S.C. 20306 for a statutory exemption to 49 U.S.C. 20303.

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 will in the future schedule a public hearing in connection with these proceedings as requested by AAR pursuant to 49 U.S.C. 20306. 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, 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 AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** 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](http://www.regulations.gov).

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety,*

*Chief Safety Officer.*

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