



**4910-06-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket Number FRA-2018-0041]**

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

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on April 18, 2018, the Port Authority Trans-Hudson Corporation (PATH) 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 214. FRA assigned the petition docket number FRA-2018-0041.

PATH is requesting relief from the definition of “fouling a track” found in 49 CFR 214.7 at certain locations within PATH’s tunnel system if certain conditions are met. PATH seeks the waiver to allow tunnel bench walls to be considered a “place of safety” under § 214.329, *Train Approach Warning*, for the safety and efficiency of roadway maintenance procedures at that those locations. If approved, when train approach warning or foul time is used as the method of protection, roadway workers may move to a previously arranged place of safety designated as a “Clearance Area.” Due to track and physical structure configurations, the designated “Clearance Area” can be less than the required four feet from the near running rail, yet still provides a place of safety, protecting roadway workers from the risk of being struck by moving trains or on-track equipment. PATH states safety will be improved by reducing the distance roadway workers must walk to reach a compliant place of safety upon receiving warning of an

approaching train. PATH also contends roadway maintenance procedures will be more efficient by increasing the number of clearing locations, thereby reducing time spent moving to and from places of safety.

PATH is a rapid transit system, with 13.8 route miles, of which 7.4 miles are composed of an underground tunnel system that operates between the states of New York and New Jersey. The current tunnel system was built between 1873 and 1901. As such, the physical structure and track configurations within the tunnel system provide many locations where it is physically impossible to clear outside four feet of the near rail. PATH explains that the historical use and safety record of bench walls as a place of clearance for close to half a century without incident show that, under certain conditions, they can be used as a place of safety within the four-foot fouling envelope.

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 Ave. 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 parties desire an opportunity for oral comment and a public hearing, 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 FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can 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.). DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of *regulations.gov*.

**Robert C. Lauby,**  
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*Chief Safety Officer.*

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