



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2009-0104]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 30, 2020, National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) to renew a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 238, Passenger Equipment Safety Standards. FRA assigned the petition Docket Number FRA-2009-0104.

Specifically, Amtrak seeks to renew the relief previously granted regarding flammability and smoke emission requirements for passenger car and locomotive cab materials as outlined in Appendix B of 49 CFR 238.103. Amtrak stated that its current fleet of 205 operating diesel locomotives is comprised of the Genesis P42-8 model manufactured by General Electric (GE). These locomotives were manufactured between 1996 and 2002, when the manufacturing and the material selection process were based on the 49 CFR part 229 regulations. However, due to the inclusion of all locomotives on passenger trains under the 49 CFR part 238 regulations, some materials in the human-occupied areas have since become non-compliant under the latest smoke and flame requirements (49 CFR 238.103).

Amtrak and GE have collectively found alternate manufactures and materials to

eliminate the non-compliant materials from the locomotive cab. However, due to the small fleet of passenger locomotives compared with freight locomotives, the cost, and the manufacturing feasibility of these materials, Amtrak has been unable to obtain alternates for the components in question. Therefore, Amtrak seeks a continued waiver for use of these materials in the locomotive cab. Several of these materials need to be replenished in the locomotive cabs; however, due to the non-compliance, Amtrak has not been able to order these items from vendors. Amtrak listed 13 items in its petition and provided descriptions and analyses about these items as support. Since the original waiver was granted in 2010, Amtrak has not had any safety-related incidents because of the grandfathered materials used in the locomotive cabs.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at 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 Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., 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 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.). Under 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, 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 www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

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