



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2019-0066]

Petition for Waiver of Compliance and Notice of Public Hearing

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a letter dated April 23, 2019, the National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) for an exemption from certain requirements of chapter 203, title 49 of the United States Code (U.S.C.). FRA assigned the petition Docket Number FRA-2019-0066.

Amtrak's request for relief relates to its planned operation of new high-speed trainsets built to Tier III passenger equipment safety standards (49 CFR part 238, subpart H) and intended to be operated at speeds above 125 miles per hour. This equipment is the subject of a separate FRA waiver proceeding in Docket Number FRA-2014-0124.

In its April 23, 2019, request, Amtrak asks FRA to exercise its authority under 49 U.S.C. 20306 to exempt this new passenger equipment from the requirements of 49 U.S.C. 20302, mandating that railroad vehicles be equipped with (1) secure sill steps and efficient hand brakes; (2) secure grab irons or handholds on vehicle ends and sides for greater security to individuals coupling and uncoupling vehicles; and (3) the standard height of drawbars. *See* 49 U.S.C. 20302(a)(1)(B), (a)(2), and (a)(3).

In support of its request for relief, Amtrak notes that in lieu of handbrakes, the trainsets will be equipped with spring actuated parking brake technology that can be manually set or released from the engineer's control stand from an active cab and

automatically applied when there is no active cab in the train or there is a loss of trainline brake continuity. Amtrak further notes that grab irons and handholds on the ends and sides of the subject equipment are not required for the security or safety of individuals coupling and uncoupling the vehicles because by design, the individual passenger vehicles and power cars can only be disconnected from each other in repair facilities where personnel can work on, under, or between units under protections afforded by 49 CFR part 218, subpart B. In addition, Amtrak asserts that side steps, end handholds, and side handholds are not required at the leading and trailing ends of high-speed trainsets because the trainsets are equipment with technology for the safe coupling of one trainset to another (i.e., each end will have automatic self-centering couplers that couple to other trainsets on impact and uncouple by mechanisms that do not require a person to go between trainsets or the activation of a traditional uncoupling lever). Finally, Amtrak asserts that because the equipment is a fixed train consist in which individual vehicles are semi-permanently coupled and, as noted above, individual vehicles can only be disconnected in repair facilities where personnel can work on, under, or between units under protections afforded by 49 CFR part 218, subpart B, having drawbars at the statutorily-prescribed height is unnecessary. Further, as this technology is intended to operate at high-speeds, the inclusion of these appurtenances would have a significant and detrimental impact on the aerodynamics of the trainset. This increase in the aerodynamic footprint would negatively impact both efficiency and aerodynamic noise emissions. In sum, Amtrak asserts that requiring compliance with the identified statutory requirements would “serve as an impediment to the introduction of the advanced technology represented by the trainset design.”

Under 49 U.S.C. 20306, FRA may exempt Amtrak from the above-identified statutory requirements based on evidence received and findings developed at a hearing demonstrating that the statutory requirements “preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.” Accordingly, to receive evidence and develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 in this instance, a public hearing is scheduled for December 11, 2019, at 9 a.m., at the National Association of Home Builders, 1201 15th St., NW, Washington, DC 20005. Interested parties are invited to present oral statements at the hearing.

For information on facilities or services for persons with disabilities or to request special assistance at the hearing, contact FRA Staff Director, Motive Power and Equipment Division, Gary Fairbanks, by telephone, e-mail or in writing, at least five business days before the date of the hearing. Mr. Fairbanks’ contact information is as follows: FRA, Office of Railroad Safety, 1200 New Jersey Ave., SE, Washington, DC 20590; telephone 202-493-6322; e-mail Gary.Fairbanks@dot.gov.

The hearing will be informal and will be conducted by a representative designated by FRA in accordance with FRA’s Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; therefore, there will be no cross examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the

conduct of the hearing, will be announced at the hearing.

The petitioner should be present at the hearing and prepared to present evidence that any requirements of chapter 203, title 49, U.S.C., for which exemption is sought “preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.”

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 participating in the hearing and/or submitting written views, data, or comments to the FRA docket identified above.

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 15 DAYS AFTER DATE OF PUBLIC HEARING]** 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 [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

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