

conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: February 4, 2011.

Larry W. Minor,

Associate Administrator, Office of Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Association of American Railroads

[Waiver Petition Docket Number FRA-2005-21613]

FRA granted waiver Docket Number FRA-2005-21613 to the Association of American Railroads (AAR) on December 5, 2005, establishing an extensive testing and inspection program to determine extended clean, repair and test intervals for air brake valves and related components as required by the *Railroad Locomotive Safety Standards* per 49 CFR 229.27 *Annual tests* and § 229.29 *Biannual tests*. Eighteen (18) separate groups of locomotives were identified for investigation in the waiver approval letter. This waiver has expired and AAR's request is to extend the waiver for another 5 years, as provided for in condition 12 of the original approval letter. As part of this request for extension, AAR has also requested that three Wabtec Railway Electronics (WRE) air brake system models (EPIC,

EPIC-II, and EPIC 3102D2) be combined into one testing category, thereby reducing the number of locomotive groups that must be investigated.

In support of this petition, AAR says that this extension will be utilized to collect additional data sufficient to determine appropriate test and inspection intervals for electronic air brake equipment. They have also submitted information from WRE supporting combining EPIC 3102D2 and EPIC II models into one group, stating that they have commonality of pneumatic components and electronic controls.

Electronic airbrake systems began to be introduced in the early 1990s. Due to the clean operation of these systems, the brake manufacturers applied for and were granted industry wide waivers permitting the clean, repair and test intervals under 49 CFR 229.27 and 229.29, to be extended to 5 years. Waiver Docket Number FRA-2000-7367 (formerly H-95-3), applies to electronic brake systems manufactured by New York Air Brake Corporation (NYAB) and Waiver Docket Number FRA-2002-13397 (formerly H-92-3) applies to electronic air brake systems manufactured by Wabtec Railway Electronics.

The successful performance of the electronic air brake systems out to 5 years led the CSX Transportation, Inc. (CSXT) to apply for a further extension for NYAB electronic air brake systems. An extensive test and inspection program under waiver Docket Number FRA-1999-6252 led to further extension of the airbrake servicing interval for the subject CSXT locomotives. The joint FRA-industry-labor committee approach to performing waiver evaluations was also validated by the experience on CSXT.

Based largely on the success of CSXT clean, repair, and test interval extension program, AAR applied for and was granted a waiver establishing a similar program for many groups of locomotives owned and operated by their member railroads. Conditional approval of waiver Docket Number FRA-2005-21613 established the terms under which the relief granted to CSXT could be extended to other AAR member railroads and established a means of evaluating 18 groups of locomotives for potential increases in electronic airbrake clean, repair and test intervals. The groups of locomotives are based on locomotive manufacturer, air brake manufacturer, manufacturer's system model, and whether or not the locomotives are equipped with an air dryer. The process for evaluating groups of locomotives was based on the

establishment of the same type of test and inspection program as had been used on CSXT for each group of locomotives identified in the approval letter.

In the 5 years that this waiver has been in effect, several joint committees including representatives of FRA, railroads, labor organizations (both operating and maintaining crafts), locomotive manufacturers, airbrake manufacturers, and others have met repeatedly to evaluate the condition of the electronic air brake equipment on various groups of locomotives at ages beyond the 5-year clean, repair and test cycle previously approved. The BNSF Railway (BNSF) has convened a joint waiver committee to evaluate GE and EMD locomotives equipped with NYAB CCB-2 air brakes without an air dryer. Interim results at the 7 years of service mark have shown the air brake system condition to be substantially the same as for similar CSXT locomotives which are air dryer equipped. Tests, teardowns and inspections of WRE Fastbrake systems have recently begun on the Union Pacific Railroad (UP) and CSXT.

Some of the locomotive groups being studied have not yet reached the clean, repair and test cycle time limit and the committees will continue to meet if this extension is granted. Certain other combinations of equipment have not yet passed beyond the 5-year age covered under the earlier waivers so committees to cover these groups are yet to be formed.

In addition to the committee work being done, Norfolk Southern, UP, Amtrak, and Canadian National have submitted the proper documentation and have been individually approved for the same relief granted to CSXT based on the established similarity of their locomotives and electronic airbrake systems to those evaluated on CSXT.

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 2005-21613) 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 within 30 days of the date 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. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

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 comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on February 4, 2011.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Denton County Transportation Authority

[Waiver Petition Docket Number FRA-2010-0180]

The Denton County Transportation Authority, Texas (DCTA), seeks a waiver of compliance from certain provision of Title 49 of the CFR. Specifically, DCTA has ordered 11 Stadler Bussnang AG, GTW 2/6 Diesel Multiple Units (DMU), the first of which will arrive in July of 2011, for use on its new "A-train" commuter rail service between Dallas, Texas, and Denton, TX. These vehicles are constructed by European manufacturer and meet European safety standards for crashworthiness and related safety measures. DCTA has submitted two petitions for relief simultaneously. The first petition for relief, the "Base Waiver," seeks relief from certain requirements of Title 49 of the CFR, particularly part 238, Passenger Equipment Safety Standards (§§ 238.115, 238.121, 238.223, 238 Appendix D Locomotive Fuel Tanks, 238.229, 238.230, 238.305, 238.309); part 229, Railroad Locomotive Safety Standards (§§ 229.31, 229.51, 229.47, 229.71, 229.135, 229 Appendix D Certification of Crashworthy Event Recorder); part 231, Railroad Safety Appliance Standards (§ 231.14); and Part 239, Passenger Train Emergency Preparedness (§ 239.101). The second petition for relief pertains to DCTA's plan to store, test, and maintain these DMU's on yard and out-of-service mainline tracks until FRA considers them for revenue service.

DCTA is building its new "A-train" commuter rail service along a 21.3-mile corridor adjacent to and parallel with Interstate 35 between Dallas, TX, and Denton, TX, along right-of-way-owned by Dallas Area Rapid Transit (DART) and featuring five (5) station stops. DART and DCTA directly operate the mainline and maintain trackage rights agreement with freight railroads for operation on the line. This rail corridor is currently active and is served only by the Dallas Garland and Northeastern Railroad (DGNO), which will continue to provide freight service to customers in the Lewisville, TX, area. DCTA has chosen these Stadler DMU's because DCTA states that they offer an equivalent or higher level of safety, security, and performance to the passengers and crew than conventional FRA-compliant equipment. Initially, DCTA will use FRA-approved and compliant RDC-1 Budd DMU's, leased from Trinity Railway Express (TRE), for a short period of time until FRA considers the Stadler DMU for revenue service. If FRA approves the Stadler

DMU for revenue service, and in order to mitigate any potential hazards that may arise from mixing Stadler DMU's with the general railroad system, DCTA will operate its "A-train" commuter rail service during an exclusive passenger period that is temporally separate from DGNO freight trains. This temporal separation may not be necessary once DCTA submits criteria and procedures that provide a technical framework for presenting evidence to FRA in support of a petition for waiver of Tier 1 crashworthiness and occupant protection standards [Alternate Vehicle Technology (per guidelines set forth in the Engineering Task Force report to the Passenger Safety Working Group of the Railroad Safety Advisory Committee)].

Pertaining to the second petition, DCTA will be testing and commissioning the Stadler DMU's while sharing the facility and yard storage tracks at the Operations and Maintenance (O&M) Facility with the leased RDC-1 DMU's. The O&M Facility has been designed to accommodate both the RDC and the Stadler DMU's sufficiently, with storage capacity to hold both fleets concurrently. In order to reduce potential hazards associated with co-mingling these two vehicle types in the O&M Facility, DCTA will operationally segregate the two types by using locked switches, derails, and blue flag protection. Testing on the mainline will be outlined in a Test Plan for FRA's approval and will occur in test zones and during times that no passenger or freight movements occur. DCTA states that this second petition for relief need only be applicable for the time period between FRA's approval of the "Base Waiver" and upon DCTA receiving permission from FRA to begin using the Stadler DMU in revenue service.

Noting that certain provisions in 49 CFR Part 231 pertaining to safety appliances are statutorily required, and therefore not subject to FRA's waiver authority, DCTA also requested that FRA exercise its authority under 49 U.S.C. 20306 to exempt DCTA from certain provisions of Chapter 203, Title 49 of the United States Code because the GTW 2/6 DMU vehicles will be equipped with their own array of safety devices resulting in equivalent safety.

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