

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.

New Jersey Transit

[Docket Number FRA-2004-18577]

New Jersey Transit (NJ Transit) seeks a waiver of compliance from the provisions of the Federal Track Safety Standards, 49 CFR Section 213.345, Subpart G, regarding certain high speed vehicle qualification testing requirements. The waiver would provide relief from having to use instrumented wheel set (IWS) tests in order to qualify its new COMET V coach equipment for speeds up to 100 mph.

The petitioner recently placed in service 230 of its new COMET V coach cars on AMTRAK's Northeast Corridor (NEC) at speeds up to 90 mph. The petitioner claims that the equipment has been designed and tested in accordance with the Federal Passenger Equipment Safety Standards (CFR Part 238) and that its suspension system specifically meets the requirements for Tier I equipment described in CFR Part 238.227(a). The petitioner also claims that the truck and suspension systems on the COMET V are virtually identical to the COMET IV cars that have operated at up to 100 mph on the NEC since 1996 [and are grandfathered under CFR Part 213.345(a)]. Because of the similarity between the COMET V and COMET IV, NJ Transit considered the COMET V to be qualified to run at 100 mph and requested permission from the FRA in July of 2002.

The FRA's analysis determined that there are enough physical differences between the COMET V and COMET IV which, when considered cumulatively, prevent the FRA from considering these vehicles as equivalent for the purposes of "grandfathering" under CFR Part 213.345(a), Subpart G. In its April 9, 2003 letter, FRA approved the petitioner's plan to conduct an equivalency test for the purpose of gathering data necessary to document a Request for Waiver under CFR Section 213.317 Waivers. During the week of

August 11–15, 2003, the petitioner, in cooperation with AMTRAK and under the observation of the FRA, conducted equivalency testing of the COMET V and COMET IV on the NEC between Newark, NJ and Philadelphia, PA at speeds up to 110 mph in non-revenue service. The petitioner submitted favorable test results to the FRA on March 8, 2004 which confirm that the COMET V and COMET IV are equivalent. The petitioner feels that the equivalency testing is sufficient to warrant the operation of the COMET V on the NEC at up to 100 mph in lieu of the IWS tests required in CFR Part 213.345.

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 communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2004-18577) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. 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://dms.dot.gov>.

Anyone is able to search the electronic form of all 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). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on August 5, 2004.

Michael J. Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****Notice of Safety Advisory 2004-03**

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2004-3 addressing the importance of restoring failed or malfunctioning highway-rail grade crossing warning systems to proper operation "without undue delay." This safety advisory supplements Safety Advisory 2002-01 issued on January 16, 2002, which addressed the importance of clear, precise, unambiguous railroad safety procedures to ensure the safety of highway-rail grade crossing warning systems or wayside signal systems that are temporarily removed from service.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

Highway-rail grade crossing active warning systems serve a critical role in providing for the safety of highway users at highway-rail grade crossings. Highway users rely on the proper functioning and integrity of these systems to provide accurate and credible warning of the approach of a train. The failure or malfunction of even one of these systems has the potential for catastrophic consequences, including injury or death.

In the interest of public safety, FRA regulations at 49 CFR Part 234 ("Grade Crossing Signal System Safety") provide minimum standards for the maintenance, inspection, and testing of highway-rail grade crossing warning systems. Today's highway-rail grade crossing warning systems have proven to be extremely reliable. Despite this