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**Authority:** 44 U.S.C. 3501–3520.

Issued in Washington, DC, on November 19, 2008.

**Kimberly Orben,**

*Director, Office of Financial Management,  
Federal Railroad Administration.*

[FR Doc. E8–27908 Filed 11–24–08; 8:45 am]

**BILLING CODE 4910–06–P**

## 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.

#### **Union Pacific Railroad Company (Waiver Petition Docket Number FRA– 2007–28454)**

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain provisions of 49 CFR Part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*. Specifically, UP seeks relief from the requirement in § 232.305(b)(2) to perform a single car air brake test (SCABT) when a “car is on a shop or repair track, as defined in § 232.303(a), for any reason and has not received a single car air brake test within the previous 12-month period.”

UP submitted a similar request in 2007, which was assigned Docket Number FRA–2007–28454. On September 12, 2008, FRA issued a letter to UP denying the 2007 waiver request because, “[t]he petition was ambiguous regarding the scope of the relief requested” and it lacked sufficient information to support the relief sought.

Subsequently, UP petitioned for reconsideration of FRA's decision to deny its 2007 request. On October 30, 2008, UP withdrew its request that FRA reconsider its denial and at the same time, UP submitted a new waiver petition, requesting similar relief as in 2007, but including new information and data supporting its request. Because this new waiver petition involves the same subject matter as UP's previous request, FRA is utilizing the same

docket number (FRA–2007–28454), and publishing this new public notice of the request. In light of the new data provided by UP, FRA will conduct a new investigation of the facts and the merits of the request. Accordingly, comments submitted to the docket prior to UP's October 30, 2008 petition, will not be considered in FRA's evaluation of this new request.

UP seeks relief from the regulation to the extent necessary to permit the replacement of non FRA-condemnable wheelsets on railcars as part of an in-train wheelset replacement program, without the need to also perform SCABTs required by § 232.305(b)(2). UP seeks relief such that only railcars with FRA-condemnable wheels and cars due for 5-year SCABTs within 6 months would require and receive SCABTs. UP requests that this relief apply to all UP unit trains.

In its petition, UP explains that it implemented the in-train wheelset replacement program beginning in August 2006, as a means to aggressively identify and replace wheelsets with irregularities, thereby reducing the number of derailments due to broken rails, joint bars, defective wheels and bearings. In-train wheelset replacements can be done by UP mechanical forces in as little as 15 minutes with no need to remove the cars from trains. This in turn reduces the number of switching events that would otherwise be required to affect the repairs, further reducing the risk of injury and derailment. In North Platte, UP estimates that switching moves have been reduced by at least 20,000 annually (conservative estimate). Further, UP notes that this in-train wheelset replacement program permits UP to replace approximately 25 percent more wheelsets than it did using traditional wheelset placement techniques.

UP explains that cars with defective wheelsets are identified by wayside defect detectors at various locations before the trains reach the terminal. These wayside detectors identify the following conditions requiring wheelset replacements: (1) Wheels causing excessive impacts, which are measured in kips, or units of 1,000 pounds (currently, AAR allows carriers to replace wheels exerting impacts of 90 kips or more); (2) wheels with high flanges, thin flanges, or other geometrical irregularities; and (3) defective bearings. If left unchecked, any of these conditions can develop into more advanced defects posing higher risks of wheel or axle failures, along with undue forces on track structures leading to rail breaks.

UP states that since the program has been in effect, wheelset related derailments have decreased. Bearing-related derailments have also decreased. UP concludes from their data that if the in-train wheelset program were to stop, there would be four to five additional wheelset related derailments annually. Moreover, UP believes that most SCABTs do not reveal any defects. According to UP, a sample of 2008 data indicated that only 12.08 percent of all railcars undergoing SCABTs on UP's rail network were found to have brake-related defects. UP notes that for coal cars, the defect was lower yet, at 3.05 percent. Accordingly, UP asserts that given the low number of defects revealed by SCABTs and the high safety benefits of in-train wheelset replacements, there is no justification for requiring SCABTs for the in-train wheelset replacement program.

While UP seeks relief from performing the many SCABTs associated with in-train wheelset replacements, UP understands the importance of complying with the 5-year SCABT requirement. To address this, during recent years UP has upgraded its information systems to automatically flag railcars that are due for a 5-year SCABT within 90 days. On January 1, 2009, the system will flag cars within 6 months of a 5-year SCABT. UP states that if FRA grants this waiver request, UP will perform a SCABT on any railcar undergoing an in-train wheelset replacement that is due for a 5-year SCABT in the following 6 months. However, UP states that if this relief is not granted, it would be forced to reduce the number of wheelset replacements it makes, or even eliminate the in-train wheelset replacement program in some locations. UP asserts that this would negate the derailment prevention and safety gains associated with the in-train wheelset replacement program. UP asserts that the delays and disruption of performing a SCABT on every car that has not received such a test in the previous 12 months (roughly 50 percent) would be intolerable. UP also asserts that many of the mechanical forces that currently perform in-train wheelset replacements could be displaced. Finally, UP asserts that requiring the railroad to perform time-consuming and unnecessary SCABTs on railcars that do not contain FRA-condemnable defects would improperly penalize UP for its innovative and safety-enhancing in-train wheelset replacement program, as well as discourage further investment in emerging technologies including

wayside and onboard monitoring, and ECP braking.

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 (Docket No. FRA-2007-28454) 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 document (or signing the document, 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 (65 FR 19477).

Issued in Washington, DC, on November 19, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E8-27901 Filed 11-24-08; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Over-the-Road Bus Accessibility Program Grant Program: Corrections to Project ID Numbers

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice; correction

**SUMMARY:** This notice revises Project Identification Numbers published in the August 22, 2008, Federal Transit Administration (FTA) notice titled "Over-the-Road Bus Accessibility Program Announcement of Project Selections." The notice identifies

corrections to Fiscal Year (FY) 2007 and 2008 Project Identification Numbers; however, award amounts remain unchanged.

#### FOR FURTHER INFORMATION CONTACT:

Contact the appropriate FTA Regional Office (Appendix A) or Blenda Younger, Office of Program Management, (202) 366-2053.

#### I. Corrections

In the **Federal Register** of August 22, 2008 (73 FR 49737), the Federal Transit Administration (FTA) published a table listing award amounts under the Over-the-Road Bus Accessibility Program. A revised table accompanies this notice which includes the following technical corrections.

1. The Project ID number indicated as D2007-OTRB-061, total award \$151,200, should be deleted and replaced with two rows: D2007-OTRB-061, total, \$8,856 and D2008-OTRB-061, total, \$142,344, as this project will be funded using both FY 2007 and FY 2008 funds.

2. The Project ID numbers indicated as D2007-OTRB-062 through D2007-OTRB-079 should be corrected to read D2008-OTRB-062 through D2008-OTRB-079, as these projects will be funded with FY 2008 funds and not FY 2007 funds. The total monetary awards remain unchanged and the total awarded to each recipient remains unchanged.

Issued in Washington, DC, this 4th day of November, 2008.

**James S. Simpson,**

*Administrator.*

**BILLING CODE 4910-57-P**