

By the Board, Rachel D. Campbell,
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Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2008-0143]

Port Authority Trans-Hudson Corporation; Notice of Public Hearing

On January 22, 2009, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** announcing the Port Authority Trans-Hudson Corporation's (PATH) request for a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 231 (Railroad safety appliance standards) for its newly built PA-5 cars. PATH seeks a waiver of compliance from certain provisions of 49 CFR and/or exemption from certain statutory provisions of Title 49 U.S.C. Chapter 203 (the "Safety Appliance Law," including 49 U.S.C. 20302) as related to hand brakes, sill steps, side and end holds, and uncoupling levers.

PATH indicates that the PA-5 vehicles it plans to utilize are equipped with spring-applied/pneumatically released parking brakes, versus conventional hand brakes as required by Section 20302. PATH further indicates that the parking brakes are capable of holding a loaded vehicle on a 5-percent grade, the steepest grade on the PATH system. Accordingly, PATH asserts that the parking brakes of its PA-5 vehicles serve the same purpose as conventional hand brakes and that such parking brakes comply with the intent of 49 CFR 231.14(a) and 238.231(h).

PATH also indicates that sill steps (required by 49 U.S.C. 20302) and side handholds (required by 49 U.S.C. 20302 to aid in coupling and uncoupling vehicles) are not necessary for safety on its PA-5 vehicles and would not enhance the safety of the vehicles. Noting that traditional sill steps and side handholds are intended to facilitate conventional switching operations requiring vehicles to be coupled manually by individuals from the exterior of the car, PATH explains that the PA-5 vehicles are equipped with fully automatic couplers that allow "all mechanical, pneumatic and electrical end connections to be coupled or uncoupled without requiring personnel to leave the vehicle." Further, PATH notes that its safety rules specifically

prohibit individuals from riding on sill steps, and asserts that given the unique characteristics of its operating environment (e.g., the continuously energized 650-volt third rail and close wayside obstruction clearances), sill steps would pose an unacceptable safety risk if individuals should attempt to ride on the steps in violation of PATH's safety rules. PATH further notes that its PA-5 vehicles are equipped with side door steps and corresponding vertical handholds at each of the six side doorways. PATH contends that these side door steps and handholds can be used to facilitate employee access to and egress from the vehicles should it be necessary.

Although PATH expresses the view that the PA-5 vehicles' automatic couplers eliminate the need for end handholds (required by 49 U.S.C. 20302 to aid in coupling and uncoupling vehicles), PATH acknowledges the concerns expressed by FRA regarding safe access to the manual uncoupling handle located on the top of the automatic coupler. Noting that the manual uncoupling handle is not intended for normal coupling/uncoupling operations and is intended to provide a method of manually uncoupling the vehicles in the event the automatic coupling function is unavailable, PATH proposes to apply two end handholds to each vehicle to "provide an additional grip point to assist a worker when operating" the manual uncoupling lever. In this connection, PATH requests a waiver of the specific number and dimension requirements of 49 CFR 231.14(d).

Again, noting that the vehicles are equipped with fully automatic couplers, along with the fact that normal coupling/uncoupling operations are performed from within the vehicle cab, PATH also seeks a waiver from the requirement of 49 CFR 231.14(g) for uncoupling levers. In support of this request, PATH notes the presence of a manual uncoupling handle "intended for shop use, when a major system malfunction occurs, or on rare occasions during an emergency road rescue."

The Safety Appliance Law mandates that railroad vehicles be equipped with (1) handbrakes, (2) sill steps, and (3) side and end handholds to aid in coupling and uncoupling vehicles. Because these are statutory requirements, FRA cannot waive compliance from these provisions. Instead, in accordance with 49 U.S.C. 20306, FRA may exempt PATH from these 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, in order to receive evidence and develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 in this instance, and to receive comment on other aspects of PATH's petition relevant to the arrangement of safety appliances on its PA-5 cars, a public hearing is scheduled to begin at 9 a.m. on Wednesday, June 24, 2009, at the Hilton Gateway Hotel, located at Gateway Center, Raymond Boulevard, Newark, New Jersey (telephone number (973) 622-5000). Interested parties are invited to present oral statements at the hearing. 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 petitioners should be present at the hearing and prepared to present evidence that the requirements of 49 U.S.C. Chapter 203, for which exemption is sought, "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law."

Issued in Washington, DC, on May 22, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 20, 2009.

The Department of Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date