

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket Number FRA–2013–0030]****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated February 14, 2013, the BNSF Railway Company (BNSF) and the Union Pacific Railroad (UP) have jointly petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2013–0030.

Specifically, BNSF and UP seek a waiver of compliance from 49 CFR 232.305(b)(2) for railroad cars tested with automatic single car test devices (ASCTD). The current rule stipulates that if a car is on a shop or repair track for any reason and has not had a single car air brake test within the previous 12-month period, a single car air brake test must be performed. In their petition, UP and BNSF state that when this requirement became effective, the new ASCTDs were not in widespread use. BNSF and UP further state that sufficient time has passed, and enough industry experience has been gained, to establish the advance in testing technology that the ASCTD has over the old manual device. Comparisons of the manual versus the automated testers made by BNSF and UP show an improvement of 11.5 percent in solving air brake-related issues. BNSF and UP submitted additional data to support their waiver petition, which has been placed in the subject docket.

BNSF and UP request that relief be granted to railroad cars tested within the previous 2 years, if shopped for any non-air brake-related reason on a shop or repair track, as set forth in 49 CFR 232.305(b). BNSF and UP propose a test waiver where all cars tested with the ASCTDs will be tracked through the Association of American Railroads' billing records for repeat air brake repairs within the 2-year period from the last single car air brake test performed with an ASCTD.

Additionally, BNSF and UP will scan data from the wheel impact load and hot/cold wheel detector reports to see if the test cars develop any detector exceptions within the 2-year time period from the last single car air brake test performed with an ASCTD. BNSF

and UP suggest that every 6 months, FRA, BNSF, and UP should hold a conference to review the data. BNSF and UP believe that data from this test waiver will demonstrate the effectiveness of the ASCTDs.

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 Docket Operations Facility, 1200 New Jersey Avenue 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 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 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 by June 14, 2013 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties 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 April 24, 2013.

Robert C. Lauby,*Deputy Associate Administrator for Regulatory and Legislative Operations.*

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****[Docket Number FRA–2012–0054]****Petition for Amending Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated January 24, 2013, the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for an amendment of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 242, Conductor Certification, in Docket Number FRA–2012–0054. On January 15, 2013, FRA granted Amtrak a waiver of compliance from 49 CFR 242.403(b), (c)(1)–(3), (d), (e)(1)–(4), (e)(6)–(11), and (f)(1)–(2). The relief granted to Amtrak was contingent on its continued participation in the Confidential Close Call Reporting System (C3RS) pilot project.

Amtrak, the Brotherhood of Locomotive Engineers and Trainmen, and the United Transportation Union seek to shield the reporting employees and the railroad from punitive sanctions that would otherwise arise as provided in selected sections of 49 CFR 242.403 to encourage conductor reporting of close calls, and to protect conductors and Amtrak from discipline or sanctions arising from the incidents reported pursuant to the Implementing Memorandum of Understanding (IMOU).

The proposed amendment extends the boundaries of inclusion under Article 3 of the IMOU to all Amtrak-owned or -controlled properties nationwide. The added locations include the Northeast Corridor (all main track operations); the Hudson Line; the Michigan Line in New Orleans, LA; and yards and facilities owned by Amtrak connected to other carriers' tracks.

Further, the amendment proposes changing the applicability parameters under Article 3.1 of the Amtrak IMOU, affording C3RS protection to NJ Transit train and engine service employees working in Sunnyside Yard.