



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUN 25 2013

Mr. Michael P. Melaniphy
President & CEO
American Public Transportation Association
1666 K Street, NW, 11th Floor
Washington, DC 20006

Re: Docket Number FRA-2007-28306

Dear Mr. Melaniphy:

This letter is in response to the American Public Transportation Association's (APTA) April 19, 2013, petition to the Federal Railroad Administration (FRA), on behalf of its member passenger railroads, for an extension of a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 238—Passenger Equipment Safety Standards in Docket Number FRA-2007-28306. Specifically, APTA requests renewal of its relief from 49 CFR § 238.309—*Periodic brake equipment maintenance* as applied to locomotives equipped with 26-L-type brake systems and air dryers, and cab cars equipped with 26-L-type brakes operated with locomotives with functional air dryers, by extending the periodic testing interval from 3 years (1,104 days) to 4 years (1,472 days).

In a letter dated October 17, 2007, FRA's Railroad Safety Board (Board) granted relief to APTA from 49 CFR § 238.309 on behalf of its member railroads. On April 9, 2012, FRA amended 49 CFR Part 229—Railroad Locomotive Safety Standards to encompass the calibration, maintenance, and testing of passenger locomotive air brake systems formerly codified in 49 CFR Part 238. In its petition, APTA noted that the passenger railroad industry generally believed that the testing interval for cab cars was covered by the provisions of 49 CFR § 229.29; however, that was not the case. In support of its extension request, APTA states that it is unaware of any performance problems with the subject brake equipment operating under the current waiver.

The Board has reviewed the petition, the results of the field investigation, and the technical staff findings, and it has determined that APTA's request for an extension of the waiver of compliance in Docket Number FRA-2007-28306 is in the public interest and consistent with

railroad safety. Accordingly, the Board hereby grants the requested relief for 5 years from the date of this letter, subject to the following conditions:

1. This waiver shall apply to all cab cars equipped with 26-L, CCB-1, CCB-2, CCB-26, EPIC 1 (formerly EPIC 3102), EPIC 3102D2, EPIC 2, KB-HS1, or Fastbrake brake systems and operated with locomotives that have functional air dryers.
2. All cab cars operating under this waiver shall have Docket Number FRA-2007-28306 properly noted on Form FRA F6180-49A.
3. Air brake equipment subject to the clean, repair, and test requirements of 49 CFR § 238.309(e)(2) shall continue to receive periodic attention every 1,476 days for that portion of the cab car brake system using brake valves that are identical to the passenger coach 26-C brake system.
4. Air brake equipment for that portion of the cab car brake system using brake valves that are identical to the locomotive 26-L, CCB-1, CCB-2, CCB-26, EPIC 1 (formerly EPIC 3102), EPIC 3102D2, EPIC 2, KB-HS1, or Fastbrake brake systems shall receive air brake system calibration, maintenance, and testing as prescribed in 49 CFR § 229.29.

This waiver expires 5 years from the date of this letter. At the conclusion of the 5-year period, FRA reserves the right to extend the waiver if conditions warrant and APTA has made a written request for an extension to FRA's Office of Safety Assurance and Compliance at least 6 months prior to the expiration date.

FRA reserves the right to modify or rescind this waiver at any time upon receipt of information pertaining to the safety of rail operations or in the event of noncompliance with any of the conditions of this waiver. This action may be directed to an individual railroad.

In any future correspondence regarding this waiver, please refer to Docket Number FRA-2007-28306.

The FRA contact for this waiver is Mr. Steven Zuiderveen, Motive Power and Equipment Safety Specialist. Mr. Zuiderveen can be reached at (202) 493-6337 or Steven.Zuiderveen@dot.gov.

Sincerely,



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