

Issued in Washington, DC on December 23, 2010.

**Robert C. Lauby,**

*Deputy Associate Administrator for  
Regulatory and Legislative Operations.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Part 211, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from 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.

#### CSX Transportation, Inc.

[Waiver Petition Docket Number FRA-2010-0173]

Pursuant to 49 CFR 213.113(a), and with respect to testing Class 1 tracks in yards, CSX Transportation, Inc. (CSX) petitions for a waiver from applying remedial actions, which are prescribed for defects found during rail inspections for Class 3 tracks and above, and is proposing alternate remedial actions to be taken for defects found during inspection of Class 1 yard tracks.

CSX requests a waiver from 49 CFR 213.113 remedial actions for the following reasons:

1. Inspection of rail is not required for Class 1 yard tracks under 49 CFR 213.237, and a program to do so (under a waiver grant) increases safety beyond present requirements.

2. Class 1 yard tracks are low risk due to the 10 mph maximum speed.

3. Defect growth, which is dependent on accumulated tonnage, is slower on Class 1 yard tracks due to slow accumulation of tonnage.

4. Yard tracks can have unusual rail sections requiring uncommon rail plugs and bars, which can extend the remedial action lead time beyond the actions prescribed for Class 3 and above tracks.

5. The proposed Class 1 yard track remedial actions provide for additional time, if necessary and prudent, to relay and replace fit rail into the track instead of using plug rail.

6. Application of remedial actions of defects found in Class 3 and above tracks, to defects found in Class 1 yard tracks, may divert limited resources and

focus away from higher risk Class 3 and above tracks.

CSX proposes the following remedial actions for defects found during rail inspection of Class 1 yard track, and requests that this waiver be granted to apply these remedial actions to Class 1 yard track only. (Refer to 49 CFR 213.113(a)(2), remedial action table and notes.)

*Proposed remedial actions for defects found during testing of Class 1 yard tracks:*

1. Compound fissure:
  - Note B, no change.
  - Note A2, change to, “\* \* \* up to 48 hours prior to another such visual inspection \* \* \*”
  - Note A, no change.
2. Transverse fissure, detail fracture, engine burn fracture, defective weld:
  - Less than 80 percent but not less than 60 percent; apply bars within 48 hours.
  - 100 percent but not less than 80 percent; inspect every 48 hours until repaired or bars applied.
3. Horizontal split head, vertical split head, split web, piped rail, and head and web separation:
  - Greater than 1 inch and less than 4 inches; inspect rail during monthly yard track inspection.
  - Greater than 4 inches; inspect every 48 hours until repaired or bars applied.
  - Break out in rail head; inspect every 48 hours until repaired or bars applied.
4. Bolt hole crack:
  - Greater than ½ inch and less than 1½ inches; inspect rail during monthly yard track inspection.
  - Break out in rail head; inspect every 48 hours until repaired or bars applied.
5. Broken base, damaged rail:
  - Inspect during monthly yard track inspection.
6. Ordinary break:
  - Apply bars within 48 hours.

Once granted, this waiver will improve track safety by specifically identifying rail inspection programs for yard tracks and prescribing remedial actions specific to yard tracks.

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 (e.g., Waiver Petition Docket Number FRA-2010-

0173) 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 45 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 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; Page 19477-78) or at <http://www.dot.gov/privacy.html>.

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