

Issued in Washington, DC on October 2, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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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.

The Messina Terminal Railroad Company (Docket Number FRA-2000-7949)

The Messina Terminal Railroad Company (MSTR), a home shop fleet of 71 AOCX aluminum covered hopper cars, has petitioned FRA for an extension of and modification to, the waiver granted on October 17, 2001 in FRA Docket No. 2000-7949. Specifically, MSTR has requested that the existing waiver be modified as follows:

1. Eliminate the requirement in condition no. 6 to lower the handbrake assembly and comply with 49 CFR 231.27(i)(iii) since § 231.27(i)(iii) only applies to cars that were built or placed into service after October 1, 1966, and that do not have roof hatches.

2. Remove condition no. 7 requiring MSTR to report immediately to FRA's Office of Safety any injury involving glazing that results from the use of the locomotive subject to this waiver since all locomotives comply with 49 CFR 223 Safety Glazing Standards.

3. Reword condition no. 4 to allow running boards to be relocated to the outboard area, provided the welding of attachment points is performed by an industry recognized, certified welder; where a sampling of welds are tested per industry standards, and the welds comply 100% with those standards. In support of this request, MSTR notes that upon completion of these modifications/repairs, the AOCX cars are expected to be in full compliance with 49 CFR 231.1(c) (Running boards).

4. Eliminate condition no. 5 which requires that each car in the pool be

stencilled with the words "Keep Off Roof-No Running Board" as outlined in 49 CFR 231.27(i)(iii) since each railcar roof is currently equipped with a running board.

5. MSTR requests that FRA extend the waiver granted on October 17, 2001, for a minimum of one additional year in order to complete the modifications/repairs needed for running boards to be relocated to the outer area.

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-2000-7949) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC, 20590-0001. 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 DOT Central Docket Management Facility, Room Pl-401 (Plaza Level), 400 Seventh Street SW., Washington, DC. 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://dms.dot.gov>.

Anyone is able to search the electronic form of all 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; Pages 19377-78). The statement may also be found at <http://dms.dot.gov>.

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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 from certain requirements of its safety regulations. 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.

Minnesota Transportation Museum, Inc. (Waiver Petition Docket Number FRA-2006-24775)

The Minnesota Transportation Museum (MTM) 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, § 232 Appendix B-Part 232, prior to May 31, 2001, § 232.17(b)(2) for passenger car maintenance requirements.

MTM is a nonprofit corporation that operates a historical and excursion train as the Osceola and St. Croix Valley Railway between Dresser, Wisconsin and Withrow, Minnesota, a distance of 25 miles, over Canadian National track. Operation of this train is from mid April to the end of October on Thursdays, Saturdays and Sundays, a total of approximately 70 operating days.

MTM currently operates three passenger coaches equipped with UC-type brakes that require a clean oil test and stencil (COT&S) every 15 months, as prescribed in the Manual of Standards and Recommended Practices of the Association of American Railroads, S-045, which was last published in 1984. MTM is requesting that a waiver be granted to extend the COT&S time period from 15 months to 24 months. This would give MTM the ability to operate for two operating seasons between COT&S events. This would also provide a savings of \$640 per year in COT&S costs for this nonprofit organization.

Also, MTM currently operates four passenger coaches equipped with D-22 type brakes that requires a COT&S every 24 months, as prescribed in the Manual of Standards and Recommended Practices of the Association of American Railroads, S-045, which was last published in 1984. MTM is requesting that a waiver be granted to extend the COT&S time period from 24 months to

36 months. This would give MTM the ability to operate for three operating seasons between COT&S events. The cost for the COT&S for the four coaches is \$6,684. Extending the COT&S interval by one-third (24 months to 36 months) would provide a savings of \$2,172 per year in COT&S costs for this nonprofit organization.

MTM declares that safety will not be compromised if this waiver is granted based on their 15 + years of experience with both the UC and D-22 type brake systems. MTM states that previous COT&S events have found the lubricant to be fresh with no detectable signs of deterioration. MTM also notes that since the UC and D-22 brakes were developed in the 1920's to 1950s, there has been considerable improvement in lubricant quality and considerable improvement in all of the flexible gasket and O-ring type materials that makes up these brake systems. It must be also noted that MTM currently has another waiver pending, docket number FRA-2006-24774, requesting an extension of the COT&S interval on one passenger coach equipped with LN-type brakes.

Interested parties are invited to submit written comments to FRA. All written communications concerning this petition should identify the appropriate docket number (e.g., Docket Number FRA-2006-24775) and must be submitted in triplicate to the Associate Administrator for Safety, Federal Railroad Administration, 400 7th Street, SW., Washington, DC 20590-0001. Comments received within 45 days of the date of this notice will be considered by FRA before any final action is taken. Although FRA does not anticipate scheduling a public hearing in connection with these proceedings, 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 written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the Central Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, D.C. 20590. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site <http://dms.dot.gov>.

Anyone is able to search the electronic form of all 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; Pages 19477-78) at <http://dms.dot.gov>.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2006-04, Notice No. 2

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory 2006-04 (Notice No. 2); Tank Cars with Stub Sills.

SUMMARY: On May 1, 2006, FRA issued Safety Advisory 2006-04 recommending that owners of tank cars equipped with the ACF Industries, Incorporated (ACF) 200 stub sill design, inspect and enhance the underframes of such tank cars in accordance with ACF's Maintenance Bulletin TC-200 (issued in 1994) and by installing the P470 angle application head brace. *See* 71 FR 26604 (May 5, 2006). The Safety Advisory indicated that owners should contact ACF for a copy of the Maintenance Bulletin and for clarification of procedures and any additional information. This Notice announces the availability of a revised Maintenance Bulletin and updates the contact information for obtaining a copy of the Bulletin.

FOR FURTHER INFORMATION CONTACT:

Albert R. Taber or Thomas A. Phemister, Railroad Safety Specialists (Hazardous Materials), Hazardous Materials Division, Office of Safety Assurance and Compliance, Federal Railroad Administration, U.S. Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590-0001 (telephone: (202) 493-6254 or (202) 493-6050; e-mail: al.taber@dot.gov or tom.phemister@dot.gov).

SUPPLEMENTARY INFORMATION:

Background

As noted in Safety Advisory 2006-04 issued on May 1, 2006, since 1990, FRA, in conjunction with Transport Canada, has documented approximately eleven known defects on tank cars built with the ACF 200 stub sill design (ACF-200 tank cars). These defects included tank

head cracks, pad to tank cracks, sill web cracks, and tank car buckling that in some instances led to hazardous materials incidents. In addition, the Association of American Railroads (AAR) Stub Sill (SS-3) inspection data related to ACF-200 tank cars shows significant percentages of longitudinal weld cracks located in the pad to sill area, and parent metal cracks in the pad. These cracks present a possible source of the loss of tank integrity which could lead to unintended releases of hazardous materials from ACF-200 tank cars.

As detailed in the Safety Advisory issued on May 1, 2006, FRA has learned that the safety concerns with the ACF-200 stub sill design are fatigue related which could be addressed through periodic inspection and modification of the tank cars at certain intervals determined by mileage and re-qualification inspection and maintenance dates. Specifically, FRA understands that the fatigue-related safety concerns with the ACF-200 stub sill design can be eliminated by modifying the underframe of the tank car in accordance with ACF's Maintenance Bulletin TC-200 (ACF Style 200 Stub Sill Underframe Enhancement, issued in May 1994) and installing the P470 angle application head brace (P470 Angle Application). Once such modifications are made to ACF-200 tank cars, the tank cars are transformed into what is known as the ACF-270 stub sill design. According to ACF, this program of retrofitting ACF-200 tank cars to the ACF-270 design, began nearly a decade ago and has progressed through the fleet, resulting in the majority of the affected cars having already been retrofitted to the ACF-270 design.

As also noted in Safety Advisory 2006-04, FRA is aware that most interested parties agree with ACF and FRA that a retrofit program is the best course of action. FRA agrees with ACF that the program established by the 1994 Maintenance Bulletin TC-200, augmented by the P470 Angle Application, is an effective method of addressing the fatigue-related safety concerns with ACF-200 tank cars. Accordingly, on May 1, 2006, FRA issued Safety Advisory 2006-04 recommending that owners of unmodified ACF-200 tank cars bring these cars into conformity with Maintenance Bulletin TC-200 and the P470 Angle Application at the earliest practicable date. *See* 71 FR 26604. Subsequent to publication of the Safety Advisory, FRA learned that ACF revised Maintenance Bulletin TC-200 on May 5, 2006. The revised Maintenance Bulletin,