



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

JUN 19 2018

Ms. Sarah Yurasko
Counsel for the Association of
American Railroads
425 Third Street, S.W.
Suite 1000
Washington, DC 20024

Re: Docket Number FRA-2017-0130

Dear Ms. Yurasko:

This letter is in reply to the Association of American Railroads' (AAR) December 20, 2017, petition to the Federal Railroad Administration (FRA) for relief from 49 CFR §§ 232.205(b), 232.209(a), 232.211(a), and 232.217(c). Specifically, AAR requests that the four-hour "off-air" restriction in each of these regulations be replaced with a 24-hour "off-air" restriction.

In support of this request, AAR asserts that substantial safety improvements in brake technology make the four-hour restriction unnecessary and that revising the four-hour restrictions to 24-hour restrictions will align the U.S. regulations with Canadian rules. AAR also asserts that data shows safety will not be compromised by such a change and asserts that because Canada allows equipment to be off-air for 24 hours, "there is no reason to suspect" that equipment "could not be operated safely in the U.S. under the same circumstances." AAR supports this assertion by supplying certain summary information, including a document titled "Failure Modes and Effects Analysis" and a chart showing the air brake defect ratio at four different geographical locations (three in the United States and one in Canada), concluding that AAR "could not attribute or correlate any of the known brake defects to time off air." AAR also provided a copy of Canada's Brake Inspection and Safety Rules.

FRA's Railroad Safety Board (Board) reviewed AAR's waiver petition and supporting documentation, and the public comments submitted to this docket. Based on its review and analysis, the Board concluded that granting the requested relief would not be in the public interest or consistent with railroad safety. In making this decision, the Board noted that AAR's request amounts to a request for a regulatory change, which would be more appropriately addressed through the rulemaking process. The Board also noted the lack of supporting data submitted with the waiver request. AAR's petition specifically relies on general air brake defect rates gathered from four specific geographical locations in the U.S. and Canada and testing involving 20 freight cars conducted at the Transportation Technology

Center, Inc. over the course of a five-day period. This data fails to capture the wide variety of operating conditions experienced over seasons and time periods by representative train sets operating in the United States. Absent more detailed data demonstrating that safety would not be compromised, the Board concluded the waiver request was not justified.

The Board also believes that AAR's request amounts to a request for a regulatory change, which would be more appropriately addressed through the rulemaking process. The Board recommends AAR reconsider its broad waiver request and either (1) resubmit its request as a more-narrowly tailored request for relief as part of a pilot program designed to gather the data necessary to support an overall regulatory change; or (2) if more extensive data already exists demonstrating the safety case for the proposed relief, the Board encourages AAR and/or its member railroads to submit a petition for rulemaking, along with sufficient supporting data to demonstrate the safety of the proposal. Specifically, FRA invites AAR to submit a petition for rulemaking under 49 CFR Part 211, containing the information required by that part supporting its request to revise the four-hour off-air restrictions in §§ 232.209(a), 232.211(a), and 232.217(c) to 24-hour restrictions.

In any future correspondence regarding this request for relief, please refer to Docket Number FRA-2017-0130. If you have any questions, please contact Mr. Steven Zuiderveen, FRA Motive Power & Equipment Specialist, at (202) 493-6337 or Steven.Zuiderveen@dot.gov; or Mr. Gary Fairbanks, Staff Director, FRA Motive Power and Equipment Division, at (202) 493-6322 or Gary.Fairbanks@dot.gov.

Sincerely,



Robert C. Lauby
Associate Administrator for Railroad Safety
Chief Safety Officer

cc: American Train Dispatchers Association
Brotherhood of Locomotive Engineers and Trainmen
Brotherhood of Railroad Signalmen
Brotherhood Railway Carmen Division
Sheet Metal, Air, Rail and Transportation
Transport Workers of America