

arrangements or those made from U.S. Government inventories or stocks) where the contractor can demonstrate that there are substantial risks above those normally present in DoD contracts for similar items;

(v) Performance-based payments made less frequently than monthly;

(vi) Performance-based payments totaling less than the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vii) An aggressive performance-based payment schedule that increases risk.

(4) *Below normal conditions.* The contracting officer may assign a lower than normal value when the contract type risk is low. Indicators of this are—

(i) Very mature product line with extensive cost history;

(ii) Relatively short-term contracts;

(iii) Contractual provisions that substantially reduce the contractor's risk;

(iv) Incentive provisions that place a low degree of risk on the contractor;

(v) Performance-based payments provided on a monthly basis;

(vi) Performance-based payments totaling the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vii) A performance-based payment schedule that is routine with minimal risk.

(e) *Costs financed.*

(1) Costs financed equal total costs multiplied by the portion (percent) of costs financed by the contractor.

(2) Total costs equal Block 20 (i.e., all allowable costs, including general and administrative and independent research and development/bid and proposal, but excluding facilities capital cost of money), reduced as appropriate when—

(i) The contractor has little cash investment (e.g., subcontractor progress payments liquidated late in period of performance);

(ii) Some costs are covered by special financing provisions, such as advance payments; or

(iii) The contract is multiyear and there are special funding arrangements.

(3) The portion financed by the contractor is generally the portion not covered by progress payments, i.e., 100 percent minus the customary progress payment rate (see FAR 32.501). For example, if a contractor receives progress payments at 75 percent, the portion financed by the contractor is 25 percent. On contracts that provide progress payments to small businesses,

use the customary progress payment rate for large businesses.

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[FR Doc. 99-11184 Filed 5-3-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 229, 231, and 232

[FRA Docket No. PB-9; Notice No. 16]

RIN 2130-AB16

Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of public meeting.

SUMMARY: By notice of proposed rulemaking (NPRM) published on September 9, 1998 (63 FR 48294), FRA proposed revisions to the regulations governing the power braking systems and equipment used in freight and other non-passenger railroad train operations. This document announces a public meeting to discuss specific issues related to FRA's collection of data concerning inspections and defects and the use of defect ratios based upon that data, and the impact that information may have on the proposed rule.

DATES: *Public Meeting:* A public meeting will be held on the date and at the location listed below to provide interested parties the opportunity to discuss FRA's collection of inspection and defect data and the calculation of defect ratios relevant to this NPRM. The date of the public hearing is as follows:

Thursday, May 27, 1999 at 10:00 a.m. in Washington D.C.

ADDRESSES: (1) *Public Meeting:* The public meeting will be held at the following location: *Washington, D.C.:* Conference Area 1, Seventh Floor, 1120 Vermont Avenue, N.W., Washington, D.C.

(2) *Docket Clerk:* Written notification to FRA's Docket Clerk must identify the docket number, and the name, address, and phone number of the participant or attendee. Each notification must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC-10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590.

FOR FURTHER INFORMATION, CONTACT: John Leeds, Director, Office of Safety Analysis, RRS-20, 400 Seventh Street, S.W., Stop 25, Washington, D.C. 20590

(telephone 202-493-6211), or Thomas Herrmann, Trial Attorney, Office of the Chief Counsel, RCC-10, 400 Seventh Street, S.W., Stop 10, Washington, D.C. 20590 (telephone 202-493-6053).

SUPPLEMENTARY INFORMATION: At the public hearings and technical conference conducted in relation to the NPRM and in written comments submitted subsequent to the public hearings and technical conference, comments were received from some parties which raised concerns regarding FRA's collection of data related to FRA's inspection activity and the number of conditions not in compliance with Federal regulations found during that inspection activity. The comments and correspondence received allege that there are substantial problems with FRA's database, that there has been substantial overreporting of the number of units inspected, and that there has been a systematic deflation of defect ratios. As the allegations and concerns raised to date have been general in nature and because the comment period in this proceeding closed March 1, 1999, FRA believes it is prudent and necessary to conduct a public meeting, on the record, to allow interested parties to fully explain and discuss their concerns. Although many of the concerns appear to involve more than the estimation of power brake defect ratios, which is the focus of this rulemaking, FRA believes that this is the appropriate forum to develop the issues and concerns.

The purpose of the public meeting is to permit the exchange of information and concerns regarding FRA's database and the information developed from that database. One purpose of the meeting is to allow FRA to provide information regarding its internal review of the data and address some of the concerns raised to date, particularly as it relates to the estimation of power brake defect ratios discussed in the NPRM. A second purpose is to allow interested parties to fully develop and articulate the issues and concerns they have with the data gathered and presented by FRA so that these concerns can be fully addressed in any final rule that is developed. It should be noted that the meeting is not intended to allow participants to cross-examine FRA or other participants on either the content of the NPRM or positions taken with regard to the issues or data presented.

Public Participation Procedures

Any person wishing to attend the public meeting should notify the Docket Clerk by mail at the address provided in the **ADDRESSES** section at least five

working days prior to the date of the meeting and submit three copies of the issues he or she wishes to raise at the meeting. The notification should identify the party the person represents, and the particular subject(s) the person plans to raise. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the meeting of persons who fail to provide such notification.

Issued in Washington, D.C., on April 29, 1999.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 99-11189 Filed 5-3-99; 8:45 am]

BILLING CODE 4910-06-U