

rail grade crossing in Bordentown, NJ and the horn blowing pattern for specific highway-rail crossings in close proximity to one another.

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.

Because the final rule on Use of Locomotive Horns is now in effect, and because it was not FRA's intention in issuing that rule to require compliance by light rail vehicles operating in joint use situations with the horn decibel level required for conventional rail equipment, FRA may issue temporary relief in this proceeding addressing that issue, following the expiration of ten (10) days from the date of publication of this notice in the **Federal Register** absent persuasive filings indicating that a contrary course of action should be taken.

All communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-1999-6135) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC, 20590. Communications received within 30 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://dms.dot.gov>.

Issued in Washington, DC on July 13, 2005.

**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) has 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.

#### **Santa Clara Valley Transportation Authority (VTA) (Supplemental Waiver Petition Docket Number FRA-1999-6254)**

As a supplement to VTA's existing Shared Use/Temporal Separation waiver, originally granted by the FRA on July 7, 2000 (a six month extension was granted on June 29, 2005 to accommodate the time needed for this Supplemental Petition process), VTA seeks a permanent waiver of compliance from sections of Title 49 of the CFR for operation of its new Vasona Corridor Light Rail Project Extension (Vasona Line) which features "limited connections" such as a shared corridor operation and an at-grade rail crossing of the light rail track by a UPRR freight spur within this shared corridor. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment*, 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems*, 65 FR 42626 (July 10, 2000).

In this regard, VTA has constructed this new extension of its 37-mile light rail system on 5 miles of the existing 15 mile long Union Pacific Railroad (UPRR) Vasona Industrial Lead. This new light rail operation will serve the cities of southwest San Jose, CA and Campbell, CA and is scheduled to open on August 12, 2005. VTA owns this 5 mile long portion of the shared corridor. As such, VTA and UPRR have executed an Operations and Maintenance Agreement, which includes an exclusive operating easement, allowing UPRR to fulfill its obligations as a common carrier of freight by continuing its existing freight operations within the purchased corridor. *This agreement requires VTA to inspect, maintain, and repair all tracks, signal systems and automatic warning devices along the freight track within that portion of the corridor shared with LRT tracks (VTA and UPRR operate on separate tracks within this corridor).* UPRR presently operates two to three round-trip freight

trains each week, during daylight hours, over this shared corridor, at speeds not exceeding 25 mph. To avoid impacts to the surrounding communities, freight operations will continue to operate during daylight hours.

In order for UPRR to continue to provide service to a flooring businesses along this shared corridor in San Jose, CA, VTA is seeking a permanent waiver of compliance from Title 49 of the CFR for operation of its new Vasona Light Rail Line over an at-grade rail crossing "limited connection" with a UPRR freight spur switched from the Vasona Lead at MP0.41 Race Interlocking. For this crossing, VTA seeks permanent waiver of compliance from sections of title 49 of the CFR, specifically: part 214, subpart B Bridgeworker Safety Standards, subpart C Roadway Worker Protection, part 217 Railroad Operating Rules, part 219 Control of Alcohol and Drug Use, part 220 Railroad Communications, part 221 Rear End Marking Devices, part 223 Safety Glazing Standards, part 225 Accident Reporting, part 228.17(a)(2) Hours of Service (for VTA dispatchers only), part 229 Locomotive Safety Standards, part 231 Railroad Safety Appliances, part 233 Signal Systems Reporting Requirements, part 236 Signal and Train Control Systems, Devices and Appliances-Interlocking, part 238 Passenger Equipment Safety Standards, and part 239 Passenger Emergency Preparedness.

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 1999-6254) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 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. Nevertheless, in view of the fact that VTA intends to commence operations on August 12, 2005, FRA reserves the right to grant temporary relief prior to the expiration of the comment period so that rail service may

be instituted as scheduled. 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://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). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on July 14, 2005.

**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.

#### Utah Transit Authority

[Supplement and Extension To Waiver Docket Number FRA–1999–6253]

As a supplement to Utah Transit Authority's (UTA) Petition for Approval of Shared Use and Waiver of Certain FRA Regulations (the original shared use waiver was granted by the FRA Railroad Safety Board on August 19, 1999 and a one year extension was granted by the FRA Railroad Safety Board on December 20, 2004), UTA seeks a permanent waiver of compliance from additional sections of title 49 of the CFR and a five year extension of this amended shared use waiver for continued safe operation of its TRAX System. UTA submits that this request is consistent with the waiver process for

Shared Use. See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000); see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42626 (July 10, 2000).

UTA TRAX is a temporally separated light rail system that shares track with Utah Railway, a freight railroad. On December 20, 2004, the FRA agreed to expand the conditions and terms of the original waiver to include 29 Santa Clara Valley Transportation Authority (VTA) cars it recently added to its fleet. Prior to service with UTA TRAX, these VTA cars were already granted a waiver from the 49 CFR part 229 except for § 229.125. UTA did not seek continuance of waiver from this provision because the newly acquired VTA vehicles would be augmented so that the lights would form the triangular pattern, identical to UTA's current fleet which is in compliance with FRA guidelines.

On April 27, 2005, the FRA issued the Final Rule on Use of Locomotive Horns at Highway-Rail Grade Crossings, 69 FR 21844 (2005), with an effective date on June 24, 2005. UTA now seeks a waiver from 49 CFR parts 222 and 229 Use of Locomotive Horns at Highway Rail Grade Crossings; Final Rule. Specifically, UTA now is requesting that the FRA waive the requirements of 49 CFR 229.129(a) with respect to UTA's existing fleet of light rail vehicles insofar as it requires that the horn be sounded at a level of at least 96dB(A) at each public highway-rail crossing.

Including this aforementioned amendment, UTA is requesting that the FRA extend its current shared use waiver for five years. UTA petitions that this time period will provide more certainty to UTA planners when setting schedules and standards for operations and maintenance, and overall make the TRAX system less costly to operate. UTA also proposes that FRA's concerns with the level of state safety oversight by Utah Department of Transportation (UDOT), which led to the one year extension rather than the five years initially sought, are being addressed and that UDOT's State Safety Oversight System Program is in compliance with the Federal Transit Administration's (FTA) State Safety Oversight Final Rule (see 49 CFR part 659 Rail Fixed Guideway Systems; State Safety Oversight). UTA also states that it is

aware of no accidents or incidents occurring on the shared track portion of the TRAX System that give rise to safety concerns relevant to any of the waived FRA regulations.

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.

Because the final rule on Use of Locomotive Horns is now in effect, and because it was not FRA's intention in issuing that rule to require compliance by light rail vehicles operating in joint use situations with the horn level required for conventional rail equipment, FRA may issue temporary relief in this proceeding following the expiration of ten (10) days from the date of publication of this notice in the **Federal Register** absent persuasive filings indicating that a contrary course of action should be taken.

All communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–1999–6253) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 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://dms.dot.gov>.

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**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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