

Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: June 10, 2008.

**Nancy E. Bobb,**

*Director, State Programs, Federal Highway Administration, Sacramento, California.*

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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.

#### Union Pacific Railroad Company (Docket Number FRA–2008–0073)

The Union Pacific Railroad Company (UP) requests relief from certain provisions of Title 49 CFR Part 232 *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*, and CFR Part 229 *Railroad Locomotive Safety Standards*, in order to begin implementation of Electronically Controlled Pneumatic (ECP) brakes. As well, the petition implicitly requests exemption from

certain provisions of Chapter 203, Title 49 United States Code.

UP's request is in line with the requests of BNSF Railway Company and Norfolk Southern Corporation in Docket Number FRA–2007–26435. The petitioner believes that this relief will permit them to implement this pilot program on an expedited basis, allow FRA and the industry to identify definable savings with ECP brake equipped train operations, and evaluate changes to the CFR to accommodate these operations on a permanent basis. UP states that implementation of ECP technology will require a substantial capital commitment of approximately one million dollars per train. Accordingly, UP requests that this waiver be in effect for a minimum of five (5) years.

UP specifically requests relief from the following sections of 49 CFR Part 232: 232.207 *Class IA Brake Tests*; 232.15(a)(7) *Movement of defective equipment*; 232.103(d) and 232.103(g) *General requirement for train braking system*; 232.109 *Dynamic brake requirements*; 232.111(b)(3) and (4) *Train handling information*; 232.205 (c)(3), (c)(4) and (c)(5) *Class I brake tests*; 232.209(a)(1) *Class II brake inspection*; 232.211 *Class III brake inspection*; 232.217 (c)(3) *Train brake tests conducted using yard air*; 232.305 *Single car airbrake tests*; and 232.505(e) *Pre-revenue service acceptance testing plan*. UP also requests relief from the requirements of 49 CFR Part 232, Subpart E related to end of train devices.

UP states that the ECP brake system they will use will meet all current Association of American Railroad Standards for ECP brakes and that they will also provide all of the necessary training to both operating and mechanical personnel. UP also represents that this requested relief should provide a framework for an expedited rulemaking by FRA which will encourage further investment in ECP brake technology throughout the railroad industry.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. Although the petition appears to present issues that would require findings under 49 U.S.C. 20306 (exemption for technological improvements), FRA does not anticipate scheduling a public hearing in connection with this request since two prior hearings in docket numbers FRA–2007–26435 and FRA–2006–26175 addressed the issue of whether chapter 203 of the United States Code precluded the development or implementation of

more efficient railroad transportation equipment or other transportation innovations as it relates to ECP brake technology. 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–2008–0073) 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 20 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; Pages 19477–78).

Issued in Washington, DC on June 25, 2008.

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

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

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