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**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 Federal railroad 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.

#### Norfolk Southern Corporation

[Docket Number FRA–2006–25706]

The Norfolk Southern Corporation (NS) 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, it seeks a waiver from 49 CFR 232.205(a)(3), which requires a Class I air brake inspection whenever a train is “off-air” for a period of more than 4 hours on certain trains on NS's Pocahontas Division in West Virginia.

NS currently departs Gilbert Yard, West Virginia, and Weller Yard, Lee Town, West Virginia, with trains approximately 100 cars in length. These trains have a Class I brake test performed when assembled. The trains are moved to Buck main line siding where the locomotives are removed and the cars are left without means of charging air for a period of up to 24 hours. This practice also happens to trains from Weller Yard to Luke main line siding, and from Gilbert Yard to Lindsey main line siding. In each instance, another block of approximately 100 cars (previously Class I tested) are brought to the siding, where the two blocks are combined and a Class I brake inspection is performed on the first block of cars that have been sitting in the siding “off-air” for more

than 4 hours. The train then departs to Portsmouth, Ohio.

NS requests relief from performing another Class I inspection on the block of cars that have been sitting in the siding “off-air” for more than 4 hours. The train travels less than 150 miles before being placed in the siding and NS contends that this waiver would reduce the exposure of their employees while performing a redundant walking inspection. NS would perform a Class III test on the cars in the sidings, when combined with the second train. NS also states that there have been no incidences of vandalism at these locations.

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 this petition should identify the appropriate docket number (FRA–2006–25706) and may be submitted by one of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic site;

- Fax: 202–493–2251;
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001; or
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 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>.

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**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

[Docket Number FRA–1999–6254]

As a second supplement to Santa Clara Valley Transportation Authority's (VTA) existing Shared Use/Temporal Separation waiver for its Tasman West Line originally granted by the FRA on July 7, 2000 (a 5-year extension was granted on September 26, 2005), VTA requests that the FRA consider reclassifying the 1.6-mile shared segment (called the Moffett Drill Track) as a “Plant Railroad” not part of the General Railroad System. VTA is also requesting a waiver from the FRA Locomotive Horn Rule, 49 CFR parts 222 and 229, at all highway grade crossings along the 1.6-mile Moffett Drill Track as long as this track is considered part of the General Railroad System. VTA seeks a permanent waiver of compliance from all sections of Title 49 of the CFR if the FRA agrees that the Moffett Drill Track should not be classified as part of the General Railroad System. (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. 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 42526.)

VTA Tasman West LRT Line is a two-track, 7.6-mile urban rapid transit light rail line owned and operated by VTA within the City of Mountain View, City of Sunnyvale, and County of Santa Clara, California. A 1.6-mile segment of this LRT Line, called the Moffett Drill Track, features 2 tracks and 11 grade crossings and is shared with freight service of the Union Pacific Railroad Company (UP). This Moffett Drill Track segment is nominally connected to the General Railroad System (connection exists at the westward terminus of the Tasman West LRT Line at the Downtown Mountain View Station with mainline tracks used by UPRR and Caltrain) by virtue of a contractual right of a single shipper for freight service to the NASA-Ames Research Center, a right that has not been exercised in the last 12 years.

VTA states that considering the total absence of freight service on this segment for the last 12 years, and the heavy restrictions which would be placed on any such movement, that the term "shared" is technical in name only and well below the level of activity which would justify application of FRA regulations to a light rail operation. Further, the character of the freight operation across the Moffett Drill Track is equivalent to providing service to a shipper facility that is not considered to be part of the General Railroad System, except when a UP freight train operating in interstate commerce actually enters the facility. In this case, unless and until the NASA-Ames Research Center actually requests and schedules the UP to enter its facility, then the FRA should waive jurisdiction over light rail operations on this 1.6-mile shared track segment. VTA states that it has received numerous noise complaints because its light rail vehicles (LRV) must blow their horns in the manner prescribed in the Locomotive Horn Rule as per 49 CFR parts 222 and 229. Its LRVs cross the 11 highway grade crossings 114 times per day from 0400 a.m. until 0100 a.m. daily, and utilize a horn with a decibel range from 85dB to 97dB. Given the history of nonexistent freight operations on this 1.6-mile segment, VTA contends a waiver of the Horn Rule requirements is more suitable and practical than establishing a quiet zone. In the event NASA-Ames Research Center does request freight service, UP remains subject to FRA regulations, and VTA will adhere to the terms and conditions of the current Shared Use Waiver with movement on the Moffett Drill Track

heavily restricted, including full temporal separation.

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 (FRA-1999-6254) and may be submitted by one of the following methods:

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic site;
- Fax: 202-493-2251;
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 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>.

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

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notification of Informational Filing To Test a Processor-Based Signal and Train Control System, and a Request for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Part 211, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad 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.

#### CSX Transportation, Inc.

[Docket Number FRA-2006-25057]

In association with continued development and implementation testing of the CSX Transportation, Inc. (CSXT) Communications Based Train Control (CBTM) System, CSXT of Jacksonville, Florida, has petitioned for a waiver of compliance from certain FRA regulatory safety requirements. CBTM is a non-vital safety-critical overlay designed to supplement the existing method of operation to protect against the consequences of human error.

CSXT is requesting a petition of regulatory relief from the following Federal regulations: 49 CFR 216.13 (Special Notice of Repairs—Locomotive), 49 CFR 217.9 (Program of Operational Tests and Inspections—Recordkeeping), 49 CFR 217.11 (Program of Instruction on Operating Rules—Recordkeeping, Electronic Recordkeeping), 49 CFR part 218 subpart D (Prohibition Against Tampering with Safety Devices), 49 CFR 229.7 (Prohibited Acts), 49 CFR 229.135 (Event Recorders), 49 CFR 233.9 (Reports), 49 CFR 235.5 (Changes Requiring Filing of Application), 49 CFR 240.127 (Criteria for Examining Skill Performance), and 49 CFR 240.129 (Criteria for Monitoring Operational Performance of Certified Engineers). CSXT is requesting regulatory relief for testing related to the CBTM on the CSXT Blue Ridge, Duke, Spartanburg, and McCormick Subdivisions, which consist of approximately 137 miles of Traffic Control System territory and 130 miles of Direct Traffic Control territory. The regulatory relief requested was previously granted; however, this relief was withdrawn by FRA in a letter dated April 8, 2005 (see docket FRA-2002-