

medical requirements that are deemed medically necessary. FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 Notice, except as modified in the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Dated: August 8, 2007.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from 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-2006-25862]

Union Pacific Railroad Company (UP) seeks amendment of a waiver for relief of sanctions from certain sections of 49 CFR Part 240. On October 17, 2006, FRA's Safety Board granted relief of sanctions from 49 CFR Sections 240.117(e)(1) through (4), 49 CFR sections 240.305(a)(1) through (4) and (6) (excluding supervisors as indicated), and 49 CFR section 240.307. See Docket FRA-2006-25862. These sections of the regulation relate to punitive actions that are required to be taken against locomotive engineers for the violation of certain railroad operating rules. Refer to 49 CFR Part 240 for a detailed listing of these sections.

UP and the employees of UP's North Platte Service Unit, represented by the Brotherhood of Locomotive Engineers and Trainmen (BLET) and the United Transportation Union (UTU), requested the waiver to facilitate participation in a Close Call Reporting System (C3RS) demonstration pilot project sponsored by FRA's Office of Research and Development. The C3RS Demonstration

Pilot Project was one of the action items included in FRA's Rail Safety Action Plan announced on January 25, 2006.

UP, BLET, and UTU developed and signed an implementing memorandum of understanding (IMOU) for the C3RS project, based on FRA's March 2005, overarching memorandum of understanding with railroad labor organizations, as a first step in commencing the demonstration pilot project. The project involves approximately 1,200 yard and road service employees headquartered in North Platte, NE. The IMOU was sent to FRA for consideration and acceptance on August 28, 2006, and was incorporated by reference in the FRA Safety Board's October 17, 2006 decision letter on this waiver.

As referenced in the IMOU, certain close calls may be properly reported by the employee(s) involved and later discovered by UP, for example, through subsequent retrospective analysis of locomotive event recorder data, etc. In order to encourage employee reporting of close calls, the IMOU contains provisions to shield the reporting employee from UP discipline.

UP, BLET, and UTU also wanted to shield the reporting employee(s) and UP from punitive sanctions that would otherwise arise as provided in selected sections of 49 CFR Part 240 for properly reported close-call events as defined in the C3RS IMOU. The waiver petition was requested for the duration of the C3RS demonstration project (5 years from implementation or until the demonstration project is completed or parties to the IMOU withdraw as described in the IMOU, whichever occurs first).

In a letter dated July 5, 2007, UP petitioned for a modification of the waiver in the form of an amendment to the IMOU. In accordance with the Board's October 17, 2006 decision letter, any material modifications to the IMOU must be approved by the FRA Safety Board. UP, BLET, and UTU now request amendment of the initial IMOU by adding the following:

#### **Amendment No. 1 to the Confidential Close Call Reporting System Implementing Memorandum of Understanding (C3RS/IMOU) dated August 17, 2006**

Pursuant to the provision of Article 13 of the C3RS/IMOU dated August 17, 2006, the Parties to the IMOU have approved the following modifications:

In Article 1C. Add yardmasters to the list of UTU crafts;

In Article 2. Modify Milepost (MP) locations and add additional trackage to reflect the actual boundaries of the North Platte Service Unit. The Parties to the Agreement have indicated their approval of

these modifications by signing this document. Due to oversight in securing signatures on the original C3RS/IMOU, there are three additional signatories to this Amendment.

Parties also recognize that the FRA must review and take appropriate action on a separate request to modify the waiver issued in support of this IMOU.

#### **Article 1. Parties to C3RS/IMOU (Parties)**

A. Union Pacific Railroad Company (UPRR, a common carrier railroad)

B. Brotherhood of Locomotive Engineers and Trainmen (BLET): the duly recognized collective bargaining representative of the craft of UPRR locomotive engineers working within the boundaries of the North Platte Service Unit of the UPRR (North Platte Service Unit).

C. United Transportation Union (UTU): the duly recognized collective bargaining representative of the crafts of UPRR conductors, trainmen, switchmen, yardmasters, and hostlers working within the boundaries of the North Platte Service Unit.

D. Federal Railroad Administration (FRA): an administration in the Department of Transportation charged with carrying out all railroad safety laws of the United States per 49 U.S.C. Section 103 and 49 CFR 1.49.

E. Bureau of Transportation Statistics (BTS): the Federal Agency responsible for maintaining the security of the confidential database and all materials reviewed by the Peer Review Teams.

#### **Article 2. PURPOSE**

The parties are voluntarily entering into this C3RS/IMOU and implementing this C3RS Demonstration project for the North Platte Service Unit with the intent to improve the safety of railroad operations on the North Platte Service Unit. The boundaries of the North Platte Service Unit are defined as Milepost (MP) 506.35 Sidney Subdivision, MP 150 Kearney Subdivision, MP 156.9 on the South Morrill Subdivision to MP 271.4 on the Powder River Subdivision and MP 521.1 to MP 528.1 on the Casper Industrial Lead on the Powder River Subdivision, Yoder Subdivision, MP 146 Marysville Subdivision, and MP 81.1 Julesburg Subdivision. This pilot program is effective only in the boundaries as specified above and does not include any area outside these boundaries.

The parties have determined that based on over 20 years experience of airlines' and foreign railroads' close call reporting systems, safety may be improved by implementing a system of voluntary, confidential, discipline-free reporting of close call events.

The purposes of this reporting are the accumulation of data on currently unreported or underreported unsafe events, analysis of reported data by peer review teams, identification of corrective actions by the Parties to remedy identified safety hazards, provision of assistance by FRA in its safety oversight role, and publication of general trends and statistics by government agencies.

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 waiver petition should identify the appropriate docket number (e.g. Waiver Petition Docket Number FRA-2006-24646) 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, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590; or;

*Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. Documents in the public docket are also available for review and copying on the Internet at the docket facility Web site at <http://dms.dot.gov>.

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>.

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 August 8, 2007.

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

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

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-28692]

#### Notice of Tentative Decision That Certain Nonconforming Vehicles Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Request for comments on tentative decision that certain nonconforming vehicles are eligible for importation.

**SUMMARY:** This notice requests comments on a tentative decision by the National Highway Traffic Safety Administration (NHTSA) that certain vehicles that do not comply with all applicable Federal motor vehicle safety standards, but that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards, are eligible for importation into the United States. The vehicles in question either (1) Are substantially similar to vehicles that were certified by their manufacturers as complying with the U.S. safety standards and are capable of being readily altered to conform to those standards, or (2) have safety features that comply with, or are capable of being altered to comply with, all U.S. safety standards.

**DATES:** The closing date for comments on this tentative decision is September 13, 2007.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.].

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety

standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, (1) That the nonconforming motor vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with all applicable FMVSS, and (2) that the nonconforming motor vehicle is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if NHTSA decides that its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

#### Most Recent Decision

On September 19, 2002, NHTSA published a notice in the **Federal Register** at 67 FR 59107 announcing that it had made a final decision on its own initiative that certain motor vehicles that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards (CMVSS) are eligible for importation into the United States. The notice identified these vehicles as:

(a) All passenger cars manufactured on or after September 1, 2002 and before September 1, 2007, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) Nos. 208 *Occupant Crash Protection*, and that comply with FMVSS No. 201 *Occupant Protection in Interior Impact*, 214 *Side Impact Protection*, 225 *Child Restraint Anchorage Systems*, and 401 *Internal Trunk Release*; and

(b) All multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 4,535 kg (10,000 lb) or less that were manufactured on or after September 1, 2002, and before September 1, 2007, that, as originally manufactured, comply with FMVSS Nos. 201, 202 *Head Restraints*, 208, 214, and 216 *Roof Crush Resistance*, and insofar as it is applicable, with FMVSS No. 225.

In the notice of tentative decision that preceded the final decision, published on August 6, 2002 at 67 FR 50979, the agency explained that the identified standards incorporated requirements that were not adopted, in whole or in