

All communications concerning these proceedings should be identified by Docket Number FRA-2008-0079 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 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://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 July 23, 2008.

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

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Informational Filing

In accordance with Section 236.913 of Title 49 of the Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received an informational filing from the Marquette Rail, LLC to permit field testing of the TrackAccess System. The informational filing is described below, including the requisite docket number where the informational filing and any related

information may be found. The document is also available for public inspection; however, FRA is not accepting public comments.

#### Marquette Rail, LLC

[Waiver Petition Docket Number FRA-2008-0081]

The Marquette Rail, LLC has submitted an informational filing to permit field testing of the software-based dispatch system for low density lines identified as TrackAccess System. The informational filing addresses the requirements under 49 CFR 236.913(j)(1). Specifically, the informational filing contains a description of the TrackAccess product and an operational concept document, pursuant to 49 CFR 36.913(j)(1).

TrackAccess is an electronic track occupancy system similar to the conventional block register. It is designed to protect the area of exclusive track occupancy given to roadway workers or train crew members by excluding the possibility of electronic issuance of the conflicting track occupancy authorities. TrackAccess aims to reduce the potential for human errors associated with issuance of track occupancy authorities to roadway workers and train crews by the dispatcher. In its autonomous mode of operation, the TrackAccess System assumes electronic delivery of track occupancy authorities to roadway workers and train crews.

The Marquette Rail, LLC desires to commence factory testing of the product on or about August 15, 2008, and conduct a field testing as soon as practicable, thereafter, contingent upon FRA's acceptance and approval of their informational filing. The Marquette Rail, LLC intends to test TrackAccess Systems on it railroad in Michigan.

Interested parties are invited to review the informational filing and associated documents at DOT's Docket Management facility during regular business hours (9 a.m.-5 p.m.) at 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590. All documents in the public docket are available for inspection and copying on the Internet at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications received into any of our dockets by name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review the 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 July 23, 2008.

**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.

#### City of Menasha, Wisconsin

[Waiver Petition Docket Number FRA-2008-0082]

The City of Menasha, Wisconsin (City), seeks a permanent waiver of compliance on certain provisions of the Use of Locomotive Horns at Highway-Rail Grade Crossings, 49 CFR Part 222. The City intends to establish Pre-Rule Quiet Zones that it had previously continued under the provisions of 49 CFR Part 222.41(c)(1). The City is seeking a waiver to extend: (1) The mailing date for a Notice of Intent as provided in 49 CFR Part 222.41(c)(2)(i)(a) which states that the Notice of Intent must be mailed by February 24, 2008 and (2) the filing date for a Detailed Plan as provided in 49 CFR Part 222.41(c)(2)(i)(b) which states that the Detailed Plan must be filed with FRA by June 24, 2008. The waiver petition requests that the City be allowed an unspecified amount of additional time to submit its Notice of Intent and Detailed Plan due to confusion regarding its five existing pre-rule quiet zones which the City is trying to consolidate into two quiet zones.

The City states that when it started to review the requirements for continuation of its Pre-Rule Quiet Zones, it discovered that the descriptions and locations of the five quiet zones were somewhat confusing. For example, there was a single crossing quiet zone on a mainline that was between two other crossings identified in a separate quiet zone. Two other quiet zones included crossings that were

not contiguous with each other and, in some cases, were very remote from the remainder of the crossings in that particular quiet zone. Upon consultation with one of FRA's Regional Crossing Managers who also spoke with the Canadian National Railroad Company (CN) about the situation, it was determined that consolidating the five pre-rule quiet zones into two was appropriate. Because of the confusion regarding its five existing quiet zone and objectives to consolidate those into two quiet zones, the City was unable to confidently and timely prepare its Notice of Intent and Detailed Plan by the required dates.

The City states that it is committed to promptly submitting its Notice of Intent and Detailed Plan. The commitment extends further to the goal of reaching compliance with the FRA safety level established for Pre-Rule Quiet Zones, realizing there may be significant costs required to implement necessary improvements.

The City seeks the waiver in order to continue the restrictions on routine sounding of locomotive horns along its five quiet zone corridors, with the possibility that these five quiet zones might be combined into two quiet zones in the future with the CN's approval.

The City states that it made a good faith effort to obtain CN's support for the waiver but failed to reach an agreement and thus was unable to file a joint waiver. The City had several good faith discussions with CN but was unable to reach an accord due to CN's requirement that the Appleton Street Crossing be closed as a condition of its support. The City offered several alternatives to the closing of Appleton Street including the permanent closure of another street, a commitment to install future supplemental safety measures (most likely a four quadrant gate system) at two major crossings (Racine Street and Plank Road), and closing Appleton Street to vehicular traffic but allowing pedestrian and bicycle traffic. The City does not feel that the closure of Appleton Street would contribute significantly to public safety. A church and school that is on the street would still need to be accessed, and it is believed that pedestrians would still attempt to cross at the location and expose themselves to train traffic. Additionally, traffic would be diverted to adjacent crossings that are approximately 850 feet from Appleton Street. Both adjacent streets are high volume arterial streets, and users would be subjected to higher traffic volumes and fewer traffic gaps.

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 FRA-2008-0082) and may be submitted by any of the following methods:

1. *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
2. *Fax:* 202-493-2251.
3. *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
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Issued in Washington, DC on July 23, 2008.

**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 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.

#### City of Waukesha, Wisconsin

[Waiver Petition Docket Number FRA-2008-0067]

The City of Waukesha, Wisconsin (City) seeks a permanent waiver of compliance from certain provisions of 49 CFR part 222, which pertain to the establishment of Pre-Rule Quiet Zones. The City intends to establish a Pre-Rule Quiet Zone that it had previously continued under the provisions of 49 CFR 222.41(c)(1). The City is seeking a waiver to extend: (1) the mailing date for a Notice of Intent as provided in 49 CFR 222.41(c)(2)(i)(A) that states that the Notice of Intent must be mailed by February 24, 2008, and (2) the filing date for a Detailed Plan as provided in 49 CFR 222.41(c)(2)(i)(B) that states that the detailed plan must be filed with FRA by June 24, 2008. The waiver petition also requests that the City be allowed to resubmit its Notice of Intent that was originally filed on March 4, 2008, in order to correct data errors in its original submission.

The City states that it made an honest attempt to prepare the Notice of Intent which was mailed on March 4, 2008. However, after a diagnostic meeting was held on May 8, 2008, it was discovered that the Notice of Intent contained a number of errors and the calculation of risk levels should be revised. The City has now retained a consultant with national quiet zone experience and requests the time extension in order to prepare an updated Notice of Intent which will accurately present risk levels so correct treatments can be planned to protect public safety.

The City seeks the waiver in order to continue the restrictions on routine sounding of locomotive horns along the current Main Line Quiet Zone (from Moreland Boulevard, MP 98.59 to Sunset Drive, MP 95.94). The City included a letter from the Wisconsin Central Ltd. Railroad (WCL) dated May 15, 2008, indicating the railroad's