

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**DATE OF UPDATE:**

June 3, 2009.

Dated: June 18, 2009.

**Habib Azarsina,***Departmental Privacy Officer, 202-366-1965.*

[FR Doc. E9-14837 Filed 6-23-09; 8:45 am]

**BILLING CODE 4910-9X-P****DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236**

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236, as detailed below.

Docket Number FRA-2009-0052.

*Applicant:* Norfolk Southern Corporation, Mr. Donald D. Graab, Assistant Vice-President Mechanical, Mechanical Department, 1200 Peachtree Street, NE., Atlanta, Georgia 30309-3579.

The Norfolk Southern Corporation (NS) seeks relief from the requirements of the Rules, Standards, and Instructions, 49 CFR Part 236, §§ 236.586 and 236.110. NS seeks a waiver from compliance with § 236.586 Daily or after trip test, in its entirety for locomotives equipped with UltraCab equipment. NS seeks a waiver from that portion of § 236.110 that requires record-keeping and record retention for tests performed under § 236.586.

The reason given for the proposed changes is that UltraCab locomotive cab signal equipment is microprocessor-based, and it is universally recognized that this technology has provided vast breakthroughs in advanced train stop and train control equipment. These systems offer improvements far superior to their predecessors in performance, reliability, and safety. Equipment is now capable of checking itself several times a second and verifying that the system is functioning properly and that all external inputs are valid.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the

interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

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-2009-0052) 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 June 17, 2009.

**Grady C. Cothen, Jr.,***Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E9-14830 Filed 6-23-09; 8:45 am]

**BILLING CODE 4910-06-P****DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****Notice of Informational Filing**

For informational purposes only, the Federal Railroad Administration (FRA) is providing notice that it has received an informational filing from the BNSF Railway Company (BNSF) to conduct testing of Configuration IV of BNSF's Electronic Train Management System (ETMS) submitted pursuant to Title 49 Code of Federal Regulations (CFR) 236.913. The informational filing is described below, including the submitting party and the requisite docket number where the informational filing and any related information may be found. The document is available for public inspection; however, FRA is not accepting public comment on the document.

**BNSF Railway Company**

[Docket Number FRA-2006-23687]

BNSF has submitted an informational filing to FRA to begin operational testing of ETMS Version IV on BNSF's Stampede Subdivision. This testing will allow BNSF to obtain the necessary assessments required to amend BNSF's currently approved Product Safety Plan (PSP) for ETMS Version I for a future submittal to FRA. In addition, this testing will allow BNSF to substantiate the ETMS technology on mountain grade territory with freight operations. The informational filing has been placed under Docket Number FRA-2006-23687 and is available for public inspection.

Interested parties are invited to review the informational filing and associated documents at the DOT 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 also 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 on June 17, 2009.

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

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

[FR Doc. E9–14825 Filed 6–23–09; 8:45 am]

BILLING CODE 4910–06–P

## 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.

#### BNSF Railway Company

[Waiver Petition Docket Number FRA–2009–0048]

The BNSF Railway Company (BNSF) requests a waiver of compliance from the requirements of 49 CFR Part 240, Qualification and Certification of Locomotive Engineers, specifically, § 240.129. BNSF's specific request is for a waiver from the requirement that locomotive engineers have annual operational performance evaluations as provided under the procedures pursuant to Sections 240.129(b), (c), and (e).

Section 240.129(b) requires a railroad to "have procedures for monitoring the operational performance of those it has determined as qualified as a locomotive engineer." Section 240.129(c) provides the requirements of the procedures referenced under (b), including that the engineer "shall be annually monitored (check ride) by a Designated Supervisor of Locomotive Engineers" and is either "accompanied by the designated supervisor" or "has his or her train handling activities electronically recorded." BNSF has a program to comply with these requirements. Section 240.129(e) requires the railroad to have an operational testing and monitoring program in place, and to perform at least one unannounced test each calendar year. This program must be designed to monitor compliance with railroad operating rules and other

directives, and to examine and test such compliance.

BNSF is currently working to implement an automatic control system that will allow the engineer certification database to connect directly to the crew database. By connecting these systems, BNSF will then be able to constantly validate information to safeguard against engineers falling outside of the provisions of Section 240.129. Once this system is fully functioning, individuals who are not current on the check-ride requirement or operational testing will automatically be prevented from operating a locomotive until such time as they meet the requirements of this rule. BNSF plans to have this system in place and fully functional by the end of August 2009. As a result, the relief granted under this waiver request will neither lead to a degradation of safety nor to any conflict with the intent of the rule.

BNSF has several employees certified under 49 CFR Part 240 for service who are not currently performing the duties that require this certification. Some of these individuals have bid on and taken positions in other service, while others have been furloughed. As a result, these individuals are not in a position to operate locomotives as an engineer. BNSF requests relief from Section 240.129 to avoid having to perform operational performance evaluations on individuals who are currently out of locomotive engineer service. Waiving performance of these evaluations on individuals not currently active as locomotive engineers is consistent with the general application of Part 240, which applies to "any person who operates locomotives."

These individuals are not operating locomotives, nor will they be allowed to operate locomotives under BNSF's control system. Performance of the operational evaluation on individuals not currently operating locomotives causes safety concerns because it requires calling a person in for the sole purpose of an evaluation ride and also because it would lead to those individuals achieving technical compliance with the rule only to go back to prolonged service in areas other than operation of locomotives. BNSF's proposal provides the operational evaluation at a time prior to the full operation of a locomotive, in compliance with the rules, but also at a time that is contemporary to the return to the active operation of locomotives.

BNSF requests this waiver as a method of ensuring that active locomotive engineers receive timely and appropriate training and monitoring as required for compliance with the rule.

Through granting this waiver, BNSF believes there will be no negative impact on safety. As described, BNSF will not permit any locomotive engineer to operate a locomotive without being in full compliance with Part 240, including Section 129, of which relief is requested. BNSF believes this process will promote enhanced safety by providing for the operational performance evaluations to be done as these engineers return to active engine service such that safe operation is fresh in their minds upon their return.

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–2009–0048) and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
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- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
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