

invites written comments from the public on the matters being investigated.

**DATES:** This investigation was initiated on July 2, 1996. Written comments from the public are due on or before noon on Monday, August 12, 1996.

**ADDRESSES:** Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Joseph Papovich, Deputy Assistant USTR for Intellectual Property, (202) 395-6864, or Thomas Robertson, Assistant General Counsel, (202) 395-6800.

**SUPPLEMENTARY INFORMATION:** Section 302(b)(1) of the Trade Act authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as "section 301") with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, *inter alia*, the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

On July 2, 1996, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to determine whether certain laws and regulations of India affecting the grant of patents and exclusive marketing rights in innovative pharmaceutical and agricultural chemical products are actionable under section 301(a). Article 70 of the TRIPs Agreement requires all countries that do not provide product patent protection for pharmaceuticals and agricultural chemicals on January 1, 1995, to establish by that time a means by which applications for patents for such inventions can be filed, which is commonly referred to as a "mailbox." These applications are to be reviewed when such protection is ultimately provided in accordance with the transitional provisions of the TRIPs Agreement. This provision allows "mailbox" applicants to preserve their original filing date for the purposes of novelty and nonobviousness considerations in patentability determinations. Article 70 of the TRIPs Agreement also requires those WTO members delaying the grant of pharmaceutical and agricultural chemical product patent protection to grant "mailbox" applications up to five years of marketing exclusivity if such applicants are granted a patent and marketing approval in another WTO

member and marketing approval in the member providing marketing exclusivity. India has not yet established a permanent formal "mailbox" system for the filing of pharmaceutical and agricultural chemical product patent applications, nor has it established a system for the grant of exclusive marketing rights. The Indian Government did attempt to establish such systems in early 1995 (although the marketing exclusively system appeared flawed), but the Indian legislature failed to act in the area and they expired. United States Government officials have repeatedly raised this issue with their Indian counterparts, but have received no satisfactory response. India's failure to establish such systems permanently in a way that gives legal assurances to the parties that file "mailbox" applications would appear to be inconsistent with the obligations set forth in Article 70 of the TRIPs Agreement.

#### Investigation and Consultations

As required in section 303(a) of the Trade Act, the USTR has requested consultations with the Government of India regarding the issues under investigation. The request was made pursuant to Article 4 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 64 of the TRIPs Agreement (to the extent it incorporates by reference Article XXII of the General Agreements on Tariff and Trade 1994). If the consultations do not result in a satisfactory resolution of the matter, the USTR will request the establishment of a panel pursuant to Article 6 of the DSU.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of WTO dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of India which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments

must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Monday, August 12, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, D.C. 20508.

Comments will be placed in a file (Docket 301-106) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301-106) may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 10:00 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,  
Chairman, Section 301 Committee.  
[FR Doc. 96-17242 Filed 7-5-96; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waivers of Compliance

In accordance with 49 CFR §§ 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from Thrall Car Manufacturing Company a request for a waiver of compliance with certain requirements of Federal regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

#### Thrall Car Manufacturing Company

[Docket No. SA-96-2]

Thrall Car seeks a waiver of compliance from certain sections of 49 CFR Part 231, Railroad Safety Appliance Standards. Thrall Car is requesting a permanent waiver of the provisions of 49 CFR Part 231 which requires that the

bottom side handhold be located not more than (21) inches from top tread of sill step—.

Thrall Car built 629 covered hopper cars beginning in 1995 which have the bottom side handhold located (21–3/8) inches from the top tread of sill step.

Car series:

CCBX 58595 thru 59000 = 406 cars.

FMLX 62001 " 62040 = 40 cars.

OCPX 70901 " 70944 = 44 cars.

UTCX 49148 " 49287 = 139 cars.

49 CFR 231.27(e)(3) requires in part that the bottom side handholds be located not more than (21) inches from top tread of sill step—.

Thrall Car state that this discrepancy originated with the introduction of a new car in June of 1995 and continued until discovery. Design corrections have been made with all subsequent covered hopper cars.

Thrall Car request to continue the use of these subject cars as they do not believe this condition presents a safety concern due to the small variance from the standard.

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—SA-96-2 and must be submitted in triplicate to the Docket Clerk, Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before August 19, 1996, 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.) in Room 8201, Nassif Building, 400 Seventh Street S.W., Washington, D.C. 20590.

Issued in Washington, DC, on July 1, 1996.

Phil Olekszyk,

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

[FR Doc. 96-17298 Filed 7-5-96; 8:45 am]

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### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of 49 CFR Part 236

Pursuant to 49 CFR Part 235 and 49 U.S.C. App. 26, the following railroads have 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.

Block Signal Application (BS-AP)—No. 3402

*Applicant: Burlington Northern Railroad Company*

Mr. William G. Peterson,  
Director Signal Engineering,  
1900 Continental Plaza,  
777 Main Street,  
Fort Worth, Texas 76102-5384.

The Burlington Northern Railroad Company seeks approval of the proposed discontinuance and removal of the traffic control system (TCS), associated with the installation of an automatic block signal (ABS) system with track warrant control, on the single main track between Appleton, Minnesota, milepost 578 and Hettinger, South Dakota, milepost 925.9, on the Willmar and Yellowstone Divisions, Appleton, Mobridge, and Hettinger Subdivision, a distance of approximately 348 miles. The proposed changes include: conversion of "Big Stone Power Plant" and "West Aberdeen" Control Points to remote-controlled interlockings, replacement of all power-operated and spring switches with circuit controller monitored hand-operated switches, removal of all switch electric locks, and modification of signal placement and spacing.

The reasons given for the proposed changes are that reduced traffic patterns do not justify the high cost to maintain an aging TCS, and this application will retain the safety of train operations provided by an ABS system while providing economic relief from having to maintain the additional plant associated with TCS.

BS-AP-No. 3403

*Applicant: Burlington Northern Railroad Company*

Mr. William G. Peterson,  
Director Signal Engineering,  
1900 Continental Plaza,  
777 Main Street,  
Fort Worth, Texas 76102-5384.

The Burlington Northern Railroad Company seeks approval of the proposed reduction to the limits of the automatic block signal system, on the single main track, between "P.A.

Tower", milepost 109.9 and Grand Forks, milepost 107.6, North Dakota, Fargo Division, Grand Forks Subdivision; consisting of the discontinuance and removal of automatic block signals 107.9, 107.8, 108.3, 108.4, and 109.2, and conversion of automatic block signal 109.3 to a distant approach signal.

The reasons given for the proposed changes are the reduction in train movements over the trackage and to provide a more efficient operation.

Rules Standards & Instructions Application (RS&I-AP)—No. 1101

*Applicant: Florida East Coast Railway Company*

Mr. Charles R. Lynch,  
Vice President-Maintenance,  
One Malaga Street,  
P.O. Box 1048,  
St. Augustine, Florida 32085-1048.

The Florida East Coast Railway Company (FEC) seeks temporary relief from the requirements of 49 CFR, Part 236, Section 236.566 of the Rules, Standard and Instructions, for a 30 day period, to the extent that FEC be permitted to operate non-operational automatic train control (ATC) equipped locomotives, over FEC's entire ATC territory by way-side signal indications of the traffic control system, to accommodate modifications to both the onboard and roadway ATC equipment.

Applicant's justification for relief: To implement changes to the ATC system code rates in order to enhance and improve the reliability of the system, associated with the designed elimination of cab signal flips.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 within 45 calendar days of the date of issuance of this notice. 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 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.