Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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.*

FRA wishes to inform all potential commenters that 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) or you may visit *http://dms.dot.gov.*

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.

Issued in Washington, DC on November 1, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–24772 Filed 11–4–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

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–2004–19395

Applicant: Union Pacific Railroad, Mr. Steven C. Beckwith, Director Service Performance, 1400 Douglas Stop 1050, Omaha, Nebraska 68179–1050.

The Union Pacific Railroad Company (UP) seeks relief from the requirements of the Rules, Standards and Instructions, 49 CFR, part 236, Section 236.110 and Section 236.586 as it pertains to the physical record keeping requirements for cab signal equipment on locomotives equipped with Harmon Cab Signal Systems.

Applicant's justification for relief: The UP received a waiver through Docket Number FRA–2001–11014, which allows the use of electronic signatures and electronic storage of daily locomotive inspection records. The UP states that there are two parts to their electronic daily inspections, and both call for the inspection of the cab signal receiver bars on locomotives equipped with Harmon Cab Signal Systems. The UP contends that the inspections are being performed, and approval of this waiver will fall in line with our current electronic daily inspection procedures. In addition this will provide further compliance with the various electronic signature and paperwork reduction laws enacted by the U.S. Congress.

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.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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.*

FRA wishes to inform all potential commenters that 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) or you may visit *http://dms.dot.gov.*

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.

Issued in Washington, DC on November 1, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–24773 Filed 11–4–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. 38302S]

United States Department of Energy and United States Department of Defense v. Baltimore & Ohio Railroad Company, et al.

[Docket No. 38376S]

United States Department of Energy and United States Department of Defense v. Aberdeen & Rockfish Railroad Company, et al.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed settlement agreement; issuance of procedural schedule.

SUMMARY: On September 15, 2004, the United States Department of Energy and the United States Department of Defense (the Government) joined by Union Pacific Railroad Company (UP) filed a motion requesting approval of an Agreement that would settle these rate reasonableness disputes as between the moving parties. The Surface Transportation Board (Board) is adopting a procedural schedule for filing comments and replies in support of, or opposition to, the proposed Settlement Agreement.

DATES: The effective date of this decision is November 5, 2004. Any parties of record or interested persons, including the United States Department of Justice and the United States Department of Transportation, may file with the Board written comments concerning the proposed Settlement Agreement by December 6, 2004. Replies by the parties to the proposed Settlement Agreement must be filed by December 20, 2004.

ADDRESSES: Any filing submitted in this proceeding must refer to Docket Nos. 38302S and 38376S and must be submitted either via the Board's e-filing format or in the traditional paper

format. Any person using e-filing should comply with the instructions found on the Board's *http://www.stb.dot.gov* Web site, at the ''E–FILING'' link. Any person submitting a filing in the traditional paper format should send an original and 10 paper copies of the filing (and also an IBM-compatible floppy disk with any textual submission in any version of either Microsoft Word or WordPerfect) to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each filing in these proceedings must be sent to each of the following (any such copy may be sent by e-mail, but only if service by e-mail is acceptable to the recipient): (1) Stephen C. Skubel, Room 6H087 9GC–32) U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; (2) Michael Glennon, Naval Sea Systems Command, 1333 Isaac Hull Ave, SE., Mail Stop 1150, Washington, DC 20376–1150; (3) Michael L. Rosenthal, Covington & Burling, 1201 Pennsylvania Ave., NW., Washington, DC 20004; and (4) Louise A. Rinn, Union Pacific Railroad Company, 1400 Douglas St., STOP 1580, Omaha, NE 68179.

Public Inspection: The motion, which includes the Settlement Agreement, is available for inspection in the Docket File Reading Room (Room 755) at the offices of the Surface Transportation Board, 1925 K Street, NW., in Washington, DC or on the Board's Web site at *http://www.stb.dot.gov.* Copies of the motion may be obtained from movants' representatives (Mr. Skubel or Mr. Glennon for the Government and Mr. Rosenthal or Ms. Rinn for UP) at the addresses listed above. The other filings in this proceeding will be available on the Board's Web site under ''E–LIBRARY/Filings.''

Service of Decisions, Orders, and Notices: The Board will serve copies of its decisions, orders, and notices only on those persons designated on the official service list as a party of record, a member of the United States Congress, or a Governor. All other interested persons may secure copies of such decisions, orders, and notices via the Board's Web site under ''E–LIBRARY/Decisions & Notices'' or by arrangement with the Board's copy contractor, ASAP Document Solutions (mailing address: ASAP Document Solutions, Suite 103, 9332 Annapolis Rd., Lanham, MD 20706; e-mail address: *asapdc@verizon.net;* telephone number: 202–306–4004). ASAP Document Solutions will handle the collection of charges and the mailing and/or faxing of decisions, orders, and notices to persons who request this service.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1609. (Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: The Government and UP jointly request the Board's approval of an Agreement to settle these rate reasonableness complaints. The complaints, filed in March 1981 against 21 major railroads under former section 229 of the Staggers Rail Act of 1980, seek reparations and a rate prescription relating to the nationwide movement of radioactive naval spent fuel, other high level radioactive wastes, and the empty containers (casks) used for their movement. The railroad defendants moved to dismiss the complaints in 1996, following the passage of the ICC Termination Act of 1995, and the proceedings have been held in abeyance for much of the time since then to permit settlement negotiations.

The Agreement applies broadly to the nationwide movement over UP of irradiated spent fuel, parts and constituents; empty casks; radioactive wastes; and buffer and escort cars. It is intended to serve as a model for settlements the Government will seek to negotiate with the remaining railroad defendants. The Government chose to negotiate with UP first because of the potential antitrust problems of negotiating with the railroad defendants as a group and in recognition of UP's central role as the destination carrier for most movements of these commodities.

The Agreement, which movants describe as flexible, comprehensive, long-term, and system wide:

(1) Establishes that the movement of these commodities constitute common carrier service; adopts guidelines for their safe handling and for security; and obligates UP to provide on an as needed basis ''extra services'' as further, or ancillary to, common carrier services;

(2) Adopts, and asks the Board to prescribe, a rate methodology to apply to all future movements of these commodities. The methodology adopts maximum revenue-to-variable cost markups (not to exceed to 1.80, 2.50, or 3.51 times the shipment cost, depending on commodity type) of UP's most current system average variable unit costs computed under the Board's Uniform Rail Costing System. Movants state that the proposed rate methodology is built on, and broadens, the rate prescription adopted in *Trainload Rates on Radioactive Materials, East R.,* 364 I.C.C. 981 (1981), and that the combination of the proposed and existing prescription should result in a national rate structure;

(3) Adopts, and asks the Board to prescribe rate methodologies to compensate UP both for ''extra services'' and dedicated train service when requested by the Government and procedures to calculate equitable compensation for emergency related costs that UP may incur;

(4) Adopts a procedure to update rates annually to reflect changes in UP's system average unit costs;

(5) Requests that UP be dismissed as a defendant in these proceedings, that UP's liability (and that of its predecessors and subsidiaries) for reparations with respect to past and future shipments be extinguished, that the liability of connecting carriers for reparations be preserved as to their portion of the charges assessed on through routes that include(d) UP, and that UP not be required to participate in rate proceedings initiated by the Government against remaining railroad defendants; and

(6) Adopts alternative dispute resolution procedures with final recourse to the Board and mechanisms to renegotiate portions of the Agreement if specific circumstances change or if changed circumstances make further adherence to the terms of the Agreement ''grossly inequitable'' to either party.

The Government separately requests that in challenging through rates that involve UP, it be permitted to establish the liability of non-settling carriers for reparations by showing the unreasonableness of their divisions or proportional rates rather than the unreasonableness of the entire through rate to reduce the administrative burdens and the increased costs that would otherwise be incurred. Additionally, the Government requests that the Board retain jurisdiction over these proceedings and continue holding them in abeyance pending settlement negotiations with remaining railroad defendants.

In support of the motion, the Government and UP claim that the Agreement will result in great savings to the parties and the Board because it will resolve cases that are pending for more than 20 years, prevent future litigation, and facilitate settlements between the Government and remaining railroad defendants. Specifically, movants claim that the Agreement will satisfy all of the Government's current and future needs for flexible and reliable common carrier service at rates that are substantially reduced from current levels and below what would likely have resulted from litigation and at the same time will

release UP from past and future liability for reparations while guaranteeing it compensation that is acceptable in view of the unique characteristics of these commodities and the other benefits of the Agreement.

Movants point out that the Agreement is based on numerous compromises which balance the needs of the parties and resolve difficult and complex issues that would otherwise take years to litigate (*e.g.*, common carrier obligation, market dominance, reasonableness standards, and such costing elements as liability exposure, costs for extra and dedicated train services, and safety precautions). They claim that the Agreement will bring certainty over a broad range of crucial operational and rate issues while providing flexibility (*e.g.*, updating mechanisms, renegotiation provisions, and dispute resolution) over the long term to minimize the potential for future disputes and accommodate changing needs and technologies.

In the movants' view, the Agreement: (1) Is in the public interest because it shifts the transportation focus from controversy and confrontation to cooperation benefitting national goals for the safe handling and storage of these commodities; (2) is consistent with the national rail transportation policy which encourages reliance on competition and the demand for service to establish reasonable rates and seeks to minimize Federal regulatory authority, promote an efficient rail transportation system, and foster sound economic conditions in transportation; and (3) affirms the Board's policy favoring the private settlement of disputes.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1.The parties to this proceeding and interested persons must comply with the procedural schedule and requirements outlined above.

2. This decision is effective on November 5, 2004.

Decided: November 1, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–24736 Filed 11–4–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 424X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Dawson and McCone Counties, MT

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 43.41-mile line of railroad extending between milepost 7.00 near Glendive and milepost 50.41 in Circle, in Dawson and McCone Counties, MT. The line traverses United States Postal Service Zip Codes 59330, 59339, 59315, and *59215.*

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 7, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 15, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 26, 2004, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, IL 60606–6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

BNSF has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 12, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by November 5, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: October 27, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–24503 Filed 11–4–04; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Effective October 31, 2004, the filing fee for an OFA increases to $1,200. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2004 Update*, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).