

Issued on: October 11, 2006.

John H. Hill,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 of the Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has 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.

BNSF Railway Company

Waiver Petition Docket Number FRA-2006-25894

Part 213 of Title 49 at § 213.113(a) states, in part “* * * when an owner of track learns, through inspection or otherwise, that a rail in track contains any of the defects listed * * *, operation over the defective rail is not permitted until (1) The rail is replaced; or (2) The remedial action prescribed * * * is initiated.” Based on the forgoing, when a rail flaw detector operator picks an ultrasonic indication for hand test verification, that indication must be considered a defect and remedial action taken until hand test determines it is not a defect. BNSF Railway Company (BNSF) believes post-test processing of detected rail-flaw data has potential to increase rail test productivity and therefore improve safety by increasing frequency of testing.

BNSF is proposing a delayed-verification pilot program to demonstrate feasibility and benefits of nonstop rail flaw test with delayed verification. BNSF proposes a delayed-verification pilot program to demonstrate feasibility and benefits of nonstop testing with delayed verification on its Barstow, Aurora, and St. Croix subdivisions. The elements of BNSF's program pilot program are:

- If million gross tons of traffic since last rail test is greater than 10, all indications of possible defects will be verified immediately.
- Indications of possible transverse defects estimated to be greater than 25 percent will be verified immediately.

- Indications of possible longitudinal defects estimated to be greater than 2 inches will be verified immediately.

- Indications of possible bolt hole cracks estimated to be greater than 1 inch in joint bars, and any indications of possible bolt hole cracks not within joint bars, will be verified immediately.

- Indications not requiring immediate verification will be verified within 48 hours.

Since FRA has not yet completed its investigation of BNSF's petition, the agency takes no position at this time on the merits of BNSF's stated justifications.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2006-25894) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. 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://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, October 11, 2006.

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.

Pioneer Valley Railroad (PVRr)

Waiver Petition Docket Number FRA-2000-7094

The Pioneer Valley Railroad (PVRr) has petitioned for a continued waiver of compliance for train employees from the requirements of 49 U.S.C. 21103(a), the Federal hours of service law (HSL). This provision requires the railroad to neither require nor allow train employees to begin or remain on duty in excess of 12 hours in a 24-hour period without receiving the appropriate 8 or 10-hour statutory off-duty period. However, the HSL contains an exemption (49 U.S.C. 21102(b)) permitting a railroad, that employs not more than 15 employees subject to the statute to seek an exemption from the 12-hour limitation. PVRr states that it is not its intention to employ a train crew over 12 hours per day under normal circumstances, but this exemption, if continued, would help its operation if unusual operating conditions are encountered.

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 2000-7094) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. 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