

## New Jersey Transit Rail

[Docket Number FRA-2008-0109]

New Jersey Transit Rail (NJTR) seeks a waiver of compliance with certain requirements of 49 CFR 238.307(c)(7) *Passenger Equipment Safety Standards*, as they pertain to inspection and gauging the coupler and draft gear arraignment during the required periodic mechanical inspection of passenger cars and unpowered vehicles used in passenger trains. The periodic mechanical inspection is required to be performed at 184-day intervals at which time the railroad would be required to uncouple the car to inspect and gauge the couplers. NJTR's request is to perform this inspection during an annual inspection and perform a visual inspection to the extent possible at 180 days.

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-2008-0109) 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 November 3, 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.

#### Metro-North Railroad

[Docket Number FRA-2007-0006]

The Metro-North Railroad (Metro-North) seeks a permanent waiver of compliance from certain specific requirements in the testing protocol of the *Locomotive Safety Standards*, 49 CFR 229.129(c), as it pertains to railroad locomotive horn testing. Metro-North seeks to utilize an acoustic enclosure specially designed for the purpose of testing horns removed from the locomotives in lieu of the requirements required in CFR § 229.129(c)(4), (5) and (7). The data from the acoustic enclosure testing would be used to calculate the level to be expected at the location 100 feet in front of the locomotive as required under CFR § 229.129(c)(7).

Metro-North has requested the Acoustical Society of America to work towards a new ANSI standard that supports the approach proposed by Metro-North. Metro-North further proposes to fund the design, fabrication and pilot testing of the testing facility proposed if this waiver application is granted on a conditional basis. In addition to the requested waiver of the technical requirements described above,

Metro-North is also requesting an extension of five (5) years to June 24, 2015, in which to complete the required testing of its approximately 762 train horns.

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-2007-0006) 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 November 3, 2008.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34936]

#### Port of Moses Lake—Construction Exemption—Moses Lake, WA [STB Finance Docket No. 34936 (Sub-No. 1)]; Port of Moses Lake—Acquisition Exemption—Moses Lake, WA

**AGENCY:** Surface Transportation Board and Washington State Department of Transportation.

**ACTION:** Notice of Availability of Environmental Assessment and Request for Public Review and Comment.

**SUMMARY:** By petition filed on August 28, 2008, the Port of Moses Lake (Port) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct rail lines in Grant County, Washington. In the same petition, the Port also seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to acquire an existing segment of rail line from Columbia Basin Railroad Company, Inc. (CBRW). The Board, through its Section of Environmental Analysis (SEA), and the Washington State Department of Transportation (WSDOT) are co-lead agencies responsible for the environmental review of the proposed rail project and the preparation of the Environmental Assessment (EA).

The proposed project, known as the Northern Columbia Basin Railroad Project, includes the construction of two new rail line segments and the acquisition and refurbishment of an existing rail segment to provide rail access to land designated and zoned for industrial uses along Wheeler Road (Road 3 NE) and at the Grant County International Airport (GCIA). The entire proposed route would extend approximately 11.5 miles.

For Segment 1, the Port proposes to construct a rail line that would allow trains to bypass downtown Moses Lake and would provide access to the industrial areas along Wheeler Road (Road 3 NE), including one of two alternatives for a bridge crossing at Parker Horn or Crab Creek. For Segment 2, the Port proposes to extend the

existing track (Segment 3), which currently terminates just south of the GCIA, to the industrial lands located east of the GCIA. For Segment 3, the Port proposes to acquire and rehabilitate an existing rail line that is currently owned by CBRW. Goods to be shipped would vary depending on the specific industries that may locate along the route, but would likely consist of steel, manufactured parts, and specialty chemicals. The proposed rail route would accommodate a maximum of two trains (one round trip) per day for the foreseeable future.

Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. The entire EA is also available for review on the Board's Web site (<http://www.stb.dot.gov>) by going to "E-LIBRARY," clicking on the "Decisions and Notices" link, and then searching by the Service Date (November 7, 2008) or Docket Number (FD 34936). SEA, working with WSDOT, will consider all comments received in making its final recommendations to the Board. The Board will then consider SEA's final recommendations and the complete environmental record in making its final decision in this proceeding.

#### FOR FURTHER INFORMATION CONTACT:

Christa Dean, Attorney and Project Manager, at (202) 245-0299; e-mail: [christa.dean@stb.dot.gov](mailto:christa.dean@stb.dot.gov), or Elizabeth Phinney, WSDOT Rail Environmental Manager, at (360) 705-7902; e-mail: [phinnee@wsdot.wa.gov](mailto:phinnee@wsdot.wa.gov). Federal Information Relay Service for the hearing impaired: 1-800-877-8339.

**DATES:** The EA is available for public review and comment. All comments must be submitted or post-marked by December 8, 2008.

**ADDRESSES:** Send written comments to: Christa Dean, Surface Transportation Board, 395 E Street, SW., Room 1108, Washington, DC 20423.

Please reference STB Docket No. 34992 in all correspondence.

Comments on the EA may also be filed electronically on the Board's Web site, <http://www.stb.dot.gov>, by clicking on the "E-FILING" link.

Decided: November 7, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

**Kulunie L. Cannon,**  
Clearance Clerk.

[FR Doc. E8-26552 Filed 11-6-08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35190]

#### Union Pacific Railroad Company—Temporary Trackage Rights Exemption—Orange County Transportation Authority

Orange County Transportation Authority (OCTA), pursuant to a written trackage rights agreement entered into between OCTA and Union Pacific Railroad Company (UP), has agreed to grant to UP temporary overhead trackage rights between milepost 165.25 at Fullerton Jct., CA, and milepost 171.00 at CP College, CA, a total distance of approximately 5.75 miles.

The transaction is scheduled to be consummated on January 5, 2009.<sup>1</sup> The temporary trackage rights will expire on or about January 26, 2009. The purpose of the temporary trackage rights is to facilitate maintenance work on UP lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Any stay petition must be filed on or before November 14, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110-161, section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

<sup>1</sup> The exemption is scheduled to become effective on November 22, 2008 (30 days after the exemption was filed).