

relief being requested, and the petitioner's arguments in favor of relief.

### Town of Black Wolf, Wisconsin

[Waiver Petition Docket Number FRA-2009-0097]

The Town of Black Wolf, Wisconsin (Town), and the Wisconsin Central Limited (WC) seek a permanent waiver of compliance from a certain provision of the Use of Locomotive Horns at Highway-Rail Grade Crossings, 49 CFR part 222. The Town and WC are seeking a waiver from the rule in order that two previously closed public at-grade crossings could be used in the calculation of the risk indices necessary to establish a quiet zone. Specifically, they are seeking a waiver from the provisions of 49 CFR part 222, appendix C, B-3 so that the risk indices that were associated with two closed crossings, Swiss Road and Country Club Road, could be used in the calculation of the Risk Index With Horns (RIWH) and the Quiet Zone Risk Index (QZRI). Both RIWH and QZRI are used in the quiet zone calculation process to determine eligibility for the establishing of a quiet zone.

The pertinent section of 49 CFR part 222, appendix C, section 1(B)(3) reads as follows: "*Crossing closures*: If any public crossing within the quiet zone is proposed to be closed, include that crossing when calculating the Risk Index with Horns. The effectiveness of a closure is 1.0. However, be sure to increase the traffic counts at other crossings within the quiet zone and recalculate the risk indices for those crossings that will handle the traffic diverted from the closed crossing. It should be noted that crossing closures that are already in existence are not considered in the risk calculations."

The Town is in the process of establishing a new quiet zone along the WC. The proposed quiet zone would consist of six public at-grade crossings and be approximately 4.3 miles in length.

The Town states that it began preparing for the quiet zone in the spring of 2001. The preparation has included the installation of automatic warning devices consisting of flashing lights and gates at all crossings. Additionally, the Town has closed two crossings: Swiss Road (DOT #690134B) in 2004, and Country Club Road (DOT #690137W) in December 2007. The Town affirms that all of these improvements were made with the intent of creating a quiet zone.

The Town states that due to budget constraints, it was necessary to spread out the safety improvements over several years. The design and

construction costs for the closing of Swiss Road and Country Club Road were approximately \$251,000. The Town's preliminary risk reduction calculations indicate that it will not be able to establish a quiet zone for the six remaining crossings as they are now configured. If risk reduction credit is not allowed for the two closed crossings, additional safety measures will have to be installed and the Town will incur additional costs. However, if risk reduction credit is provided for the closure of the two crossings, the Town's calculations indicate that it would be able to establish a quiet zone without any additional improvements. (**Note:** Please see the docket to view the Town's calculations).

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-2009-0097) 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

document (or signing the document, 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 (65 FR 19477) or at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC, on October 28, 2009.

**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) 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.

#### Dallas Area Rapid Transit

[Docket Number FRA-2004-20000]

The Dallas Area Rapid Transit (DART), located in Dallas, TX, seeks an extension of its permanent waiver of compliance from Title 49 of the CFR for continued operation of a light rail line at a "limited connection" with the Dallas Garland and Northeastern Railroad (DGNO). *See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment*, 65 FR 42529 (July 10, 2000); *see also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems*, 65 FR 42626 (July 10, 2000).

DART is currently expanding its light rail operations and will double in size to 93 miles by 2014. Expansion includes shared corridor operation with DGNO with up to 50 or more limited connections at shared highway-rail grade crossings anticipated.

Based on the foregoing, DART is seeking an extension of the terms and conditions of its current waiver of compliance from the provisions of the

*Federal Railroad Locomotive Safety Standards*, 49 CFR 229.125—Headlights and Auxiliary Lights, and 49 CFR 234.105—Activation Failure. Other than new construction of the new light rail lines described in the original petition, DART claims that no modifications or changes have occurred since the first waiver was granted on May 2, 2005.

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–2004–20000) 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.
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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>.

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**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) 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.

#### Canadian National Railway

[Waiver Petition Docket Number FRA–1999–5756]

The Canadian National Railway (CN) seeks to expand a previously granted waiver of compliance with the *Locomotive Safety Standards*, 49 CFR 229.47(a), which requires each car body-type road locomotive be equipped with an emergency brake valve adjacent to each end exit door, and the brake pipe valve locations shall be stencilled as "EMERGENCY BRAKE VALVE" or shall be identified on an adjacent badge plate.

CN's original request was for 178 car body locomotives built between 1985 and 1990. It was utilized to haul freight that have never been equipped with an emergency brake valve at the rear exit door. The original waiver received conditional approval from FRA's Safety Board on April 14, 2000. Subsequent to the approval, CN acquired 40 additional car body-type locomotives when they acquired ownership of BC Rail Ltd., which did not meet the requirements of 49 CFR 229.47(a). CN requests that these 40 locomotives be added to the 178 locomotives that were previously granted relief under waiver Docket Number FRA–1999–5756.

Since the original granting of the waiver for the 178 car body-type locomotives, CN has been unaware of any problems arising from the lack of an emergency brake valve adjacent to the rear end exit door.

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–1999–5756) 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.
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**Grady C. Cothen, Jr.,**

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

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