

Torreon, Mexico, by FXE on northbound unit trains to be considered valid for run-through trains interchanged with BNSF at Eagle Pass, Texas, and bound for Temple, Texas. FXE Carmen will perform all Class 1 initial terminal inspections and repairs, and will comply with all parts of 49 CFR 232 and 215, as well as all applicable Association of American Railroads interchange rules. With this test waiver, BNSF and FXE seek to establish to FRA's satisfaction that cross-border commerce can be safely increased by eliminating the congestion of traffic that presently occurs at the border.

BNSF and FXE expect to demonstrate, with this test waiver, that Class 1 initial terminal inspections performed in Mexico by FXE carmen are equally on par with Class 1 initial terminal inspections performed by U.S. railroads to comply with Federal regulation. BNSF and FXE state that the available inspection track on the U.S. side of the border is rudimentary at best with no option for expansion from adjacent landholders, while work environment enhancements are offered at FXE's Rio Escondido and Torreon facilities.

The FXE Rio Escondido facility is a new and modern facility built to facilitate international rail commerce, equipped with the latest in freight car repair technology and tooling, and is staffed with trained and motivated employees. BNSF estimates risk in the work environment is halved by performing inspections and repairs at Rio Escondido or Torreon, as compared to the present U.S. facility.

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-2010-0126) 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 (Volume 65, Number 70; Page 19477) or at <http://www.dot.gov/privacy.html>.

Issued in Washington, DC on October 18, 2010.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

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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 Pacific Railway

[Waiver Petition Docket Number FRA-2010-0024]

The Canadian Pacific Railway (CP) hereby petitions FRA for a temporary waiver from 49 CFR Part 213, subpart C, to develop and test pilot an "unattended" track geometry measurement system. Over the course of 6 months, CP intends to test the new system on their Northeast U.S. main line

between Rouses Point and Binghamton, New York, a distance of approximately 315 miles. The project includes outfitting and deploying an unattended track geometry measurement system that will be used in conjunction with other automated systems to monitor overall track infrastructure condition on a frequency that is not possible today.

CP asserts that the benefits that are expected to be derived from this system are as follows:

- Increased geometry inspections over what is possible today (anticipated 400% increase) resulting in improved infrastructure reliability;
- Proactive instead of reactive track maintenance will result in improved infrastructure condition and therefore a safer operation;
- Scheduled maintenance and repair activities will reduce unscheduled employee call outs and therefore also reduce fatigue related risk to employees;
- Reduction of track geometry which will cause slow orders; and
- Improved passenger train performance at a reduced level of risk.

The project is currently in the planning phase. CP indicates that if FRA agrees, the build, design and test phase of the project could commence in late 2010. Testing would then occur in early 2011. It is the testing phase of the project that is the subject of this waiver application. In order to proceed with this pilot project, CP is seeking a temporary waiver from 49 CFR part 213, subpart C, such that all measurements and data produced by the new track geometry vehicle are deemed "not valid" and "immaterial" for the purpose of track geometry verification. The data produced during the 6 month test period will be used solely for the purposes of mapping and for false positive rejection development, and CP is requesting regulatory relief for the initial 6-month period when the new equipment is being evaluated and tested.

CP further explains that it will adhere to all regulated track inspection processes while the new track geometry equipment is being tested. All track defects identified through the normal inspection processes will be corrected according to current processes and procedures designed to comply with FRA's track safety standards. The waiver that is being requested will only apply to information that is developed through the use of the new geometry technology during the initial 6 month testing and evaluation phase of the project.

CP further explains that it does not expect that the waiver would apply to the regular, manned track geometry

inspection, which CP will continue to perform 3 times annually until such time as the new technology is proven reliable. Following the 6 month testing and evaluation phase of the project and assuming that the benefits of the system prove out, CP indicates that it request further regulatory relief from FRA.

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-2010-0024) 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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Issued in Washington, DC on October 18, 2010.

**Robert C. Lauby,**

*Deputy Associate Administrator for Regulatory and Legislative Operations.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

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#### Union Pacific Railroad Company

[Waiver Petition Docket Number FRA-2010-0145]

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain provisions of 49 CFR part 232, Brake System Safety Standards. Specifically, UP has petitioned FRA for a determination that the engineering principles used in its design of its Continuous Speed Control Yard located at Roseville, California, are a sufficient primary retarder to prevent equipment rollouts and act as an acceptable form of alternate securement under 49 CFR 232.103(n)(1), Securement of unattended equipment.

UP states that the Continuous Speed Control System is unique from conventional hump yards because thousands of small piston capsule retarders (in lieu of the use of two or three large retarders) are strategically located to control each freight car's speed to deliver into its assigned track at a safe coupling speed. This use of capsule retarders allow for a streamline yard design which allows more moderate curves, a lower hump, and gentler grades resulting in lower speeds in the switching area. UP additionally states that the design elements of the Continuous Speed Control System meets American Railway Engineering and Maintenance-of-Way Association (AREMA) practice for safe and effective operation as presented in Section 2.4 of the AREMA Manual for Railway Engineering. UP also states that the design of Roseville yard is improving safety by eliminating the need to have

employees enter the active bowl tracks and tie additional handbrakes. Therefore, UP seeks a determination that the engineering principles used in its design of Roseville yard are sufficient to be an acceptable form of primary securement when combined with the use of skates as secondary securement.

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-2010-0145) and may be submitted by any of the following methods:

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