

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A scoping meeting will be held at the time and place noted below:

Scoping Meeting

Date: Wednesday, May 7, 1997.

Time: 1:30 p.m.

Place: Charleston Heights Art Center, 800 S. Brush Street, Las Vegas, NV.

A public hearing will also be held. Public notice will be given of the time and place of the hearing. The public hearing will be held after the draft EIS is available for review.

To ensure that the full range of issues related to this proposed action is addressed and any significant impacts are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the NDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued: April 16, 1997.

John T. Price,

Division Administrator, Federal Highway Administration, Carson City, Nevada.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Petitions for Waivers of Compliance and Notice of Hearing

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for waivers of compliance with certain requirements of the Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Union Pacific Railroad, FRA Waiver Petition Nos. WPS-97-1, WPS-97-2

Union Pacific seeks a permanent waiver of compliance from certain provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. Union Pacific specifically seeks relief from 49 CFR 214.329, *Train Approach Warning Provided by Watchmen/Lookouts*, which requires that "Roadway workers in a roadway work group who foul any track outside of working limits shall be given warning of approaching trains by one or more watchmen/lookouts * * *" Union Pacific wishes to use an automatic train approach warning system (TAWS) and automatic highway-rail grade crossing warning devices in place of watchmen/lookouts for the provision of train approach warning for roadway workers who foul a track outside of working limits at certain equipped locations, and under specific conditions.

FRA published, on December 16, 1996, a Final Rule amending 49 CFR 214 by adding Roadway Worker Protection Standards. The amendment became effective on January 15, 1997. The Rule requires that Class I railroads, including Union Pacific, be in compliance by March 15, 1997. The regulation mandates clearly defined methods of protection against moving trains and railroad equipment for railroad employees who perform certain maintenance and inspection duties on and near railroad tracks.

Union Pacific, a Class I railroad, has requested a waiver to permit the use of two different types of systems to provide train approach warning. The first system for which a waiver is requested is the automatic UP Train Approach Warning System (TAWS). According to UP, the TAWS has been in place at control points on much of UP's heaviest tonnage routes since 1978. It has become part of the UP standard package at all new control points installed on UP. UP states that there have been no recorded instances where TAWS failed to perform its intended function of illuminating a blue rotating light and sounding an audible alarm one minute prior to the approach of a train to alert a roadway worker.

UP avers that the TAWS, properly utilized, is more effective than a watchman/lookout, providing a longer warning time and not being susceptible to distraction or fatigue. Information provided by UP indicates that the TAWS is an integral part of the signal and train control system, incorporating the same level of reliability and principles of fail-safe design.

The second system for which waiver is requested is the automatic highway-rail grade crossing warning device. UP states that these devices have been in use for many years to provide warning to motorists of the approach of trains to highway-rail grade crossings. UP states that these devices are designed to provide at least 20 seconds warning of the approach of a train to the crossing, and that they meet the requirements for sufficient warning time for roadway workers to move to a place of safety not less than 15 seconds before the arrival of a train. UP has not stated specifically whether all or some, or which, types of automatic highway-rail grade crossing warning devices would be subject to the waiver petition. UP did state that a roadway worker must be able to both see and hear the activation of the device, thus implying that only devices with both audible and visual warning features would be subject to this petition. UP has included with the petition a set of detailed rules and instruction for the operation and use of both types of devices for the purpose of providing warning of approaching trains to roadway workers.

Norfolk Southern Railway Company, FRA Waiver Petition No. WPS-97-3

Norfolk Southern Railway Company (NS), a Class I railroad company, seeks a permanent waiver of compliance from certain provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. NS specifically seeks a waiver of 214.337(c)(3), which states:

(c) Individual train detection may be used to establish on-track safety only:
* * *

(3) On track outside the limits of a manual interlocking, a controlled point, or a remotely controlled hump yard facility; * * *

NS requests that FRA grant relief to NS by allowing the NS Roadway Worker Protection Program to permit a lone worker performing inspection and minor correction work to use individual train detection for providing on-track safety only: [a] at those locations within manual interlockings, controlled points and remotely controlled hump yards where suitable visibility, noise, hearing, and adjacent track conditions; and [b] only in connection with inspection and minor correction work activities which do not interfere with the safe passage of trains and engines.

NS avers that the requested waiver will not compromise the safety of roadway workers who utilize its provisions, and that, if the waiver is not granted, that safety will be hindered rather than improved by hindering

incidental inspections which are presently being performed over and above the requirements of the Federal Railroad Administration. NS further avers that, if the requested waiver is not granted, NS will incur substantially increased operating costs without achieving any economic or safety benefits.

NS has included with its petition proposed language for its Roadway Worker Protection Program which would be adopted should FRA grant the petition, and a statement of costs associated with the subject provision of the Rule.

Southeastern Pennsylvania Transportation Authority, FRA Waiver Petition No. WPS-97-4

Southeastern Pennsylvania Transportation Authority (SEPTA), a publicly owned passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. SEPTA specifically seeks relief from 49 CFR 214.305, *Compliance dates*. SEPTA states that allowing only 90 days to come into compliance from the date of the Final Rule's publication does not give ample time to file waiver requests, receive responses from FRA, modify on-track safety program drafts in accordance with FRA's response, modify on-track safety manuals, modify training programs, and train railroad and contractor employees. SEPTA specifically request that the compliance date be extended not to exceed 120 days, after notification of FRA's waiver determination.

SEPTA also seeks a permanent waiver of compliance from the following additional provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.337, *On track safety procedures for lone workers*, subsection (c)(3), to permit lone workers to use individual train detection in the limits of interlockings and controlled points;

49 CFR 214.327, *Inaccessible track*, to permit the use of train approach warning on non-controlled tracks in yards; and

49 CFR 214.319, *Working limits*, generally, to permit the use of restricted speed in conjunction with a portable whistle sign as one means of providing protection for roadway workers on both controlled and non-controlled track.

Northern Indiana Commuter Transportation District, FRA Waiver Petition No. WPS-97-5

Northern Indiana Commuter Transportation District (NICD), a

publicly owned passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. NICD specifically seeks relief from 49 CFR 214.305, *Compliance dates*, in which NICD seeks an extension of the compliance date from March 15, 1997 to June 15, 1997. NICD states that the additional time is needed to train approximately 200 employees on its roadway worker protection program.

NICD seeks a permanent waiver of compliance with the following provisions of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.319, *Working limits*, in which NICD wishes to allow the use of restricted speed as an alternative means of providing on-track safety protection. NICD avers that it has in the past used slow speeds on adjacent tracks to provide additional protection for roadway workers engaged in large scale maintenance or renewal projects on out-of-service tracks.

49 CFR 214.327, *Inaccessible track*, in which NICD wishes to allow the use train approach warning as prescribed in 49 CFR 214.329, in lieu of establishing working limits through the use of inaccessible track in Shops Yard, Michigan City, Indiana.

49 CFR 214.329, *Train approach warning provided by watchmen/lookouts*, in which NICD wishes to allow watchmen/lookouts to perform functions other than that of watching for the approach of trains, while a roadway work group is utilizing definite train location for on-track safety until ten minutes before the departure of a scheduled train at the nearest station.

49 CFR 214.331, *Definite train location*, in which NICD wishes to continue to use the provisions of this section without a phase-out date as called for in section 214.331 (b).

49 CFR 214.323, *Foul time*, in which NICD wishes to allow the Superintendent of Transportation or his designee to issue foul time, rather than the train dispatcher or control operator.

NICD includes with its petition examples of situations in which each of the requested waivers would be used on its property.

New Jersey Transit Rail Operations, FRA Waiver Petition No. WPS-97-6

New Jersey Transit Rail Operations (NJTRO), a publicly owned passenger railroad, seeks a temporary waiver of compliance from a provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection.

NJTRO seeks relief from 49 CFR 214.305, which states:

Each program adopted by a railroad shall comply not later than the date specified in the following schedule: * * *

(a) For each Class I railroad (including National Railroad Passenger Corporation) and each railroad providing commuter service in a metropolitan or suburban area, March 15, 1997. * * *

NJTRO requests that the compliance date be extended to July 15, 1997. NJTRO avers that the requested extension will allow NJTRO to fully train and qualify its employees, and will minimize the financial and operational impact associated with the original compliance date. NJTRO has attached to its petition a copy of its rules for the protection of trains.

Long Island Rail Road, FRA Waiver Petition No. WPS-97-7

The Long Island Rail Road (LIRR), a publicly owned passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. LIRR seeks relief from 49 CFR 214.305, *Compliance dates*, by requesting an extension of the compliance date from March 15, 1997 to June 15, 1997. LIRR states that the additional time is needed to fully integrate professional training for approximately 1,475 employees who will require training in its roadway worker protection program.

LIRR also seeks a permanent waiver of compliance from the following additional provisions of the 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection:

49 CFR 214.337 *On track safety procedures for lone workers*, subsection (c) (3), to permit lone workers to use individual train detection in the limits of its 39 interlockings which incorporate only two tracks.

49 CFR 214.327 *Inaccessible track*, in conjunction with a waiver of 49 CFR 214.337 to permit the use of individual train detection by lone workers in its 28 non-hump yards with a maximum train speed of 15 miles per hour, and in conjunction with a waiver of 49 CFR 214.319, *Working limits, generally*, to permit the use of train approach warning by roadway work groups in the same 28 yards.

49 CFR 214.319 *Working limits, generally*, to permit the use of restricted speed as one means of providing protection for roadway workers on both controlled and non-controlled track, and 49 CFR 214.343, *Training and qualification, general*, and 49 CFR

214.353, Training and qualification of roadway workers who provide on-track safety for roadway work groups to permit the examination and qualification of such employees every three years rather than annually as required in the current Rule.

Alaska Railroad Corporation, FRA Waiver Petition No. WPS-97-8

The Alaska Railroad Corporation (ARRC), a publicly owned passenger railroad, seeks a temporary waiver of compliance from one provision of 49 CFR Part 214, Railroad Workplace Safety, Subpart C, Roadway Worker Protection. ARRC seeks relief from 49 CFR 214.305, *Compliance dates*, by requesting an extension of the compliance date from March 15, 1997 to January 1, 1998. ARRC states that additional time is needed to permit it to replace its present method of train operation by time table and train orders with a positive train separation system. ARRC avers that to implement a roadway worker protection program based on informational lineups at this time, and then to replace that system within the year might serve to confuse its roadway workers. ARRC plans to have the positive train separation system in place by October 15, 1997, and to implement a method of exclusive track occupancy for protection of roadway workers after that date.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number WPS-97-1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 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 (9:00 a.m.—5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

FRA has determined that a public hearing is necessary before making a final decision on these petitions. Accordingly, a public hearing is hereby set for 9:00 a.m. on May 22, 1997, at The Westin, 1400 M Street, N.W., Vista Ballroom A, Washington, D.C. 20005. Interested parties are invited to present oral statements at this hearing.

The hearing will be informal and conducted in accordance with Rule 25 of FRA's *Rules of Practice* (49 CFR 211.25) by a representative designated by FRA. FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, D.C. on April 15, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB No. MC-F-20906]

Capital Motor Lines, et al.—Pooling—Greyhound Lines, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed pooling application.

SUMMARY: Applicants, Capital Motor Lines, d/b/a Capital Trailways, of Montgomery, AL, and Colonial Trailways, of Mobile, AL (collectively, Capital), and Greyhound Lines, Inc. (Greyhound), of Dallas, TX, jointly seek approval under 49 U.S.C. 14302 of an operations and revenue pooling agreement to govern their motor passenger and express transportation services between Mobile and Birmingham, AL, and between Mobile and New Orleans, LA.

DATES: Comments on the proposed agreement are due by May 23, 1997, and, if comments are filed, applicants' rebuttal is by June 12, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB No. MC-F-20906 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Room 713, 1925 K Street, N.W., Washington, DC 20423-0001. Also, send one copy of comments to applicants' representatives: Dennis N. Barnes, 1800 M Street, N.W. (#600N), Washington, DC 20036-5869; and Fritz R. Kahn, Suite 750 West, 1100 New

York Avenue, N.W., Washington, DC 20005-3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565-1600. [TDD for the hearing impaired: (202) 565-1695.]

SUPPLEMENTARY INFORMATION: Under the proposed pooling arrangement, applicants seek approval to pool portions of their services over routes which they both operate and to share the revenues derived from their operations over these routes.

Applicants are competitors on certain intercity routes between Mobile and Birmingham and between Mobile and New Orleans. Because their competing services operate at nearly the same times of day with buses that are only partially loaded, applicants assert that their operations are inefficient, costly, and, as a consequence, that they are unable to compete effectively with Amtrak, airlines, and private automobiles.

Applicants assert that there is substantial intermodal competition between points on the affected routes to protect the public and that the proposed revenue pooling agreement does not threaten to produce an unreasonable restraint on competition. They state that Amtrak operates daily passenger train service between Mobile and Montgomery, Mobile and Birmingham, Montgomery and Birmingham, and Mobile and New Orleans. Additionally, they indicate that the affected points receive daily connecting air flights from Delta Air Lines, Northwest Air Lines, and US Airways. Numerous interstate highways connect these points, as well, making private automobile travel relatively quick and inexpensive.

The proposed pooling of services, according to applicants, will enable them to increase their passenger load per bus. This, in turn, will reduce their unit costs and make their services more competitive. Additionally, they emphasize that the proposed pooling arrangement will permit them to schedule service more evenly throughout the day, affording the traveling public a greater choice of departure times and enhancing the convenience of bus travel.

Applicants state that they are not domiciled in Mexico and are not owned or controlled by persons of that country. In addition, they assert that approval of the pooling agreement will not significantly affect either the quality of the human environment or the conservation of energy resources. In fact, they claim that it will result in the conservation of fuel and, hence, the reduction of emissions.